INDUSTRIAL RELATIONS COUNCIL

ANNUAL REPORT

1989

BRITISH COLUMBIA

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INDUSTRIAL RELATIONS COUNCIL

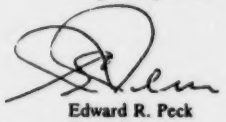
February 28, 1990

The Honourable Norman Jacobsen
Minister of Labour and Consumer Services
Parliament Buildings
Victoria, B.C.
V8V 1X4

Dear Mr. Minister:

Herewith the Annual Report of the Industrial Relations Council, for the year ended December 31, 1989.

Respectfully submitted,



Edward R. Peck
Commissioner

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COMMISSIONER'S MESSAGE

1989 constituted the second full year of operation of the Council. It was a year which saw increasing demands on the Council's resources, particularly on the staff of the Adjudication Division and the Registry who perform the bulk of the Council's work. (In 1989 the Council recorded the receipt of 3,876 applications addressing legal issues, and an additional 95 applications requesting the appointment of a mediation officer.) It was also a year marked by a number of significant collective bargaining conflicts, however these were generally of short duration. By year end only seven strikes (of small employers) were in effect in the Province.

Another development which manifested itself in 1989 was an increase in the complexity of issues facing our adjudicators. The reasons for this were several, including an increase in the skill and sophistication of labour relations practitioners generally, coupled with a determination on their part to directly resolve disputes over legal issues that arose between the parties. In the result, the issues remaining unresolved were the more complex ones, and many of these found their way to the Council for adjudication.

Critical to our development as an effective administrative tribunal has been the centralization of administration and the use of the new Case Management System, a computerized tracking system designed to speed up the adjudication process. This system became fully operative on June 26, 1989. The Council is now able to track all cases on an ongoing basis from point of entry in the Registry to final disposition. Another major function of the computer network is nearing completion and will assist the Council in carrying out its responsibilities pursuant to Section 137.2 of the Act, namely to monitor collective bargaining and gather and publish information and statistics in respect of labour relations, employment and bargaining in B.C. The database is currently being created and will be available early in 1990, with access by computer link to follow at a later date.

Our Library continues to be an excellent resource centre for union, management and legal representatives alike, as well as others in the labour relations community. QUICKSEARCH (QL Systems Ltd.) will soon be accessible and will contain IRC Decisions dating back to 1987 and LRB Decisions from 1974.

A change occurred at the senior level with the departure of G. Bud Gallagher, who served for 2 1/2 years with distinction as the Council's first Adjudication Division Chairman. His position was filled by the promotion of Ken Albertini, who vacated the Registrar's position. The replacement Registrar is Paul Devine, an experienced administrator appointed from the ranks of Vice-Chairmen. 1989 also witnessed the departure of Vice-Chairman Arthur Haladner, and the recruitment from Ontario of a new Vice-Chairman, Walter Pylypchuk, a well qualified labour lawyer. In August the Government further strengthened the ranks of the Council by appointing four new members, namely: Ken Andrews, Bryan Denton, Mark Leffler and Tony Poje. As former union officials, Messrs. Andrews and Denton are members representative of

employees, while Messrs. Leffler and Poje represent employers. (for their particulars, see page 14)

I conclude by expressing my gratitude to all officers, members of the Council and staff for their dedication and hard work during 1989. I would also like to acknowledge the work of the Industrial Relations Officers of the Employment Standards Branch who devote a great deal of their time and energy providing investigative services for the Council, and do it well.

Back Row (left to right) Members: Ken Andrews, Monty Alton, Clare Alcott, Tony Poje, Bryan Denton, Art Broomhall, Peter Richardson, Duncan Wilkins

Middle Row (left to right) Members: Jack Adams, Jane Grimwood
Vice-Chairmen: Heather McDonald, Barry Goff, Walter Pylypchuk, Joe Crowder, Richard Longpre, Bob Arseneau, Shelley Nitikman and John Donaldson, Member

Front Row (left to right) Catherine Bruce, Vice-Chairman, Paul Devine, Registrar, Ken Albertini, Chairman, Adjudication Division, Edward R. Peck, Commissioner, Darwin Benson, Chairman, Disputes Resolution Division, Nora Paton, Vice-Chairman.

Absent: Mark Leffler, Member

1 THE COUNCIL

Section 27(1) of the *Industrial Relations Act* (the "Act") reads as follows:

> 27.(1) The council, having regard to the public interest as well as the rights of individuals and the rights and obligations of the parties before it and recognizing the desirability for employers and employees to achieve and maintain good working conditions as participants in and beneficiaries of a competitive market economy, shall exercise the powers and perform the duties conferred or imposed on it under this Act so as to achieve the expeditious resolution of labour disputes, and for these purposes the council shall have regard to the following purposes and objects:
>
> (a) securing and maintaining industrial peace and furthering harmonious relations between employers and employees;
>
> (b) improving the practices and procedures of collective bargaining between employers and trade unions as the freely chosen representatives of employees;
>
> (c) promoting conditions favourable to the orderly and constructive settlement of disputes between employers and employees or their freely chosen trade unions;
>
> (d) encouraging the voluntary resolution of collective bargaining disputes;
>
> (e) minimizing the harmful effects of labour disputes on persons who are not involved in the disputes;
>
> (f) providing such assistance to employers and bargaining agents as may facilitate the making or renewing of collective agreements;
>
> (g) gathering and publishing information and statistics respecting collective bargaining in the Province.

These purposes and objects form the policy foundation for the Council's comprehensive jurisdiction under the Act, which governs the process of collective bargaining and offers mechanisms to assist in the resolution of labour disputes in both the public and private sectors of the Province. In addition to the responsibilities under the Act, the Council is charged with responsibility in labour relations matters under eleven other statutes (see Table B). The Council's expansive jurisdiction is unique among Canadian labour tribunals and requires an administrative structure to accommodate this varied legislative mandate. Section 12(2) of the Act provides that the Council shall consist of a commissioner, vice chairmen, and as many members equal in number representative of employers and employees respectively, as the Lieutenant Governor in Council considers proper, all of whom shall be appointed by the Lieutenant Governor in Council. The commissioner is the head of the Council. The Act requires that there be at least two divisions of the Council, one of which the commissioner has designated the Industrial Relations Adjudication Division (the "Adjudication Division"), and the other which he has designated the Disputes Resolution Division. The commissioner is required by the Act to designate one of the vice chairmen to be chairman of the Adjudication Division and another vice chairman to be chairman of the Disputes Resolution Division. He has also designated a vice chairman as registrar of the Council. The chairmen and registrar report

directly to the commissioner, but the two Divisions and the Registry operate as departments administratively independent of each other.

A fourth department of the Council, entitled Finance and Administration, has also been established to administer the personnel, budget, library, and computer requirements for the tribunal as a whole.

The abbreviated organization chart on page 10 offers a visual illustration of the Council's administrative structure. Following is a brief description of the Council's administrative operations.

Office of the Commissioner

As head of the Council, the commissioner has a general obligation to oversee the administration of the legislation and the Council's operations. (The chairmen of the Adjudication and Dispute Resolution Divisions, the registrar and the director administration all report directly to the commissioner). Pursuant to Section 13 of the Act, the commissioner is empowered to establish panels and refer business to them. Accordingly, the commissioner, on the recommendation of the chairman, appoints the adjudication panels in the Adjudication Division and may himself sit on such a panel to resolve a legal dispute. The commissioner also has significant powers under Part 8.1 of the Act in assisting parties to achieve a voluntary resolution of interest disputes. These powers include the appointment of mediators and fact-finders and the referral of disputes to public interest inquiry boards.

Office of the Registrar

Every application received by the Council enters the system through the registrar's office, which oversees the administration and progress of the case as it makes its way through the system until the matter is finally disposed of by the Council. Even applications which under the Act are to be made to the commissioner or chairman of the Disputes Resolution Division must be initiated through the registrar's office which will process and direct them to the appropriate individual. The effective and speedy processing of cases is augmented by the Council's new computer system. Thus it is particularly important for computerized case monitoring/management purposes, that every application to the Council be processed through the one location of the registrar's department. The registrar is also responsible for the Council's special investigating officers. He assigns them to assist parties to achieve a settlement of a legal issue, with the goal that a formal hearing and legal adjudication may be unnecessary. Finally, the registrar, as a vice chairman of the Council, may chair or sit as a member of an adjudication panel. A new procedure has been established whereby the registrar, as lone panel member, may dispose of certain applications that lend themselves to summary disposition. This process has contributed to a much speedier disposition of many types of applications. The registrar's staff includes two assistant registrars, three special investigating officers, a secretary and other support staff.

The Adjudication Division

As its name denotes, the Adjudication Division concentrates on adjudicating legal issues in labour relations such as the acquisition and termination of bargaining rights, complaints of unfair labour practices and allegations of illegal strikes, lockouts or picketing activity. In essence, the Adjudication Division continues the function of the former Labour Relations Board. It is not involved in the resolution of interest disputes. The majority of applications to the Council are directed to the Adjudication Division for resolution.

The efforts of the investigating officers achieve a voluntary accommodation in approximately half of these cases. Notwithstanding the high percentage of voluntary resolution, the Adjudication Division has a heavy caseload which must be dealt with as expeditiously as possible. The Division is managed by a senior vice chairman who is appointed chairman of the Division. The chairman monitors the workload in the Division, deals with any problems that may arise in the scheduling of hearings or other difficulties that may occur in the processing of a given case, and is generally responsible for the efficient provision of the Council's adjudicative services. Thus the new computerized case monitoring/management system is of great assistance to the chairman. As of December 31, 1989, there were nine vice chairmen reporting to the chairman of the Adjudication Division. Given that he is also a vice chairman of the Council, the chairman may himself chair or sit as a member of an adjudication panel.

Legal services to the Adjudication Division are provided by a staff of four lawyers. The senior solicitor is employed on a continuing basis by the Council, whereas other lawyers are hired for terms certain. The lawyers report to the chairman of the Adjudication Division through the senior solicitor. They engage in legal research, attend hearings and provide legal advice to the members of the Adjudication Division, as well as represent or assist in representing the Council's interests in judicial review proceedings.

The Disputes Resolution Division

This Division has the statutory responsibility to monitor all labour disputes in the Province and assist parties in the voluntary resolution of collective bargaining conflict. Preventive mediation is encouraged. Moreover, the Division is intended to function as an industrial relations resource centre, for the Act requires that it gather and publish information and statistics respecting private and public sector settlements, labour relations, employment and collective bargaining in the Province. The computer system is a critical tool in this regard. This Division is managed by a senior vice chairman, who is appointed chairman of the Division by the commissioner. The Act empowers the chairman to appoint a mediation officer to assist parties in resolving an interest dispute, at the request of a party, on his own motion, or at the direction of the commissioner. As of December 31, 1989, there were five mediators and one vice chairman, as well as support staff, reporting to the chairman of this Division.

Finance and Administration Group

Finance and Administration is responsible for administering the Council's budget and its support functions including library, information systems, security and personnel services. The Director oversees the negotiation and administration of the collective agreement with the Staff Association of the Council. The Manager Information Systems, Manager Library Services, and the Personnel Administration Supervisor all report to the Director. The vice chairmen's secretaries also report to the Director.

Finance and Administration has continued to play a key role in the implementation of the data management plan for the Council which was developed in 1987. The plan called for extensive use of current computer technology. The main goals of the system are to improve word processing capacity and develop a case management scheme that will improve and control the internal and external flow of documents and information. In addition, the system is to be used to generate statistics on collective bargaining, store library catalogues, and allow for the use of computer aided research tools.

This system has as its main purposes:

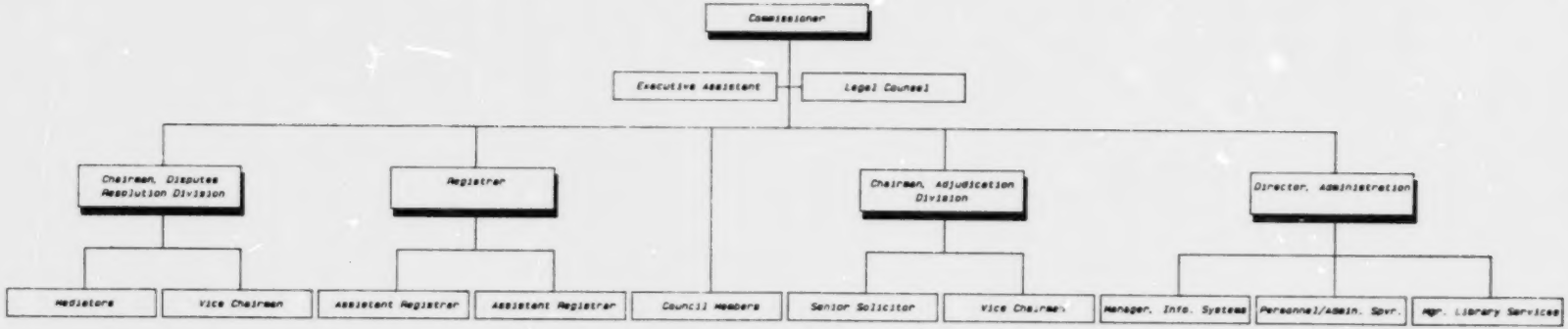
- *event tracking*
- *external document tracking*
- *document generation (ie notice of hearings)*
- *resource scheduling (ie witnesses, adjudicators, hearing rooms)*
- *management information (ie caseloads, elapsed times)*

It was also envisioned that the system would be fully integrated with the improved word processing system.

The first two phases of the system became operational in September 1988. The third and final portion of the system became operational in June 1989. This was the most complex portion of the system and dealt with the actual tracking of cases and events along with the generation of documents associated with adjudication cases.

The Information Systems staff have been working on an ongoing basis to improve the overall performance of the system and respond to the changing demands of the user group, thus ensuring that the original goals are achieved.

Industrial Relations Council
Abbreviated Organization Chart



II MEMBERS OF THE COUNCIL

As of December 31, 1989, the Council consisted of the following members:

EDWARD R. PECK *Commissioner*

Mr. Peck graduated from the University of British Columbia in 1949 with the degree of Bachelor of Commerce. He has more than thirty-five years of industrial relations experience in public and private industry, spanning both federal and provincial jurisdictions. The positions he has held include: Chief of Personnel Services, B.C. Power Commission (1955-61); General Manager, Peace Power and Columbia Hydro Constructors (1966-69); Manager of Labour Relations, B.C. Hydro (1970-71); President, Towboat Industrial Relations Association of B.C. (1971-73); Vice Chairman and Chief Administrative Officer, Labour Relations Board of B.C. (1973-79); Commissioner, Compensation Stabilization Program of B.C. (1982-87). He has also served as an Industrial Inquiry Commissioner and mediator/arbitrator in a number of disputes, and as special advisor to various ministers of labour.

KENNETH E. ALBERTINI *Chairman, Adjudication Division*

Mr. Albertini is an experienced mediator and adjudicator, and has more than twenty years labour relations experience in British Columbia. He has held many positions involving the negotiation and administration of collective agreements, including supervision of operations, Greater Victoria School District #61 (1971-1973), and president of Transport Labour Relations (1976-1977). He served as a mediation officer with the Mediation Services Branch of the B.C. Ministry of Labour for seven years. Mr. Albertini was appointed vice chairman of the Labour Relations Board of B.C. in 1981, and vice chairman/registrar in 1984, which positions he held until his appointment with the Council. He is a member of the Arbitrators' Association of British Columbia.

A. PAUL DEVINE *Registrar*

Mr. Devine graduated from the University of British Columbia in 1972 with an LL.B degree. After articling with the Vancouver law firm of Alexander, Guest and Company, he was appointed as a compensation consultant with the British Columbia Department of Labour, representing workers and dependents before the Workers' Compensation Boards of Review. Mr. Devine has extensive experience as an adjudicator. He held several positions at the Workers' Compensation Boards of Review/Review Board since his appointment as administrative chairman in 1977, including that of registrar. He was appointed chairman of numerous appeal boards, and adjudicated thousands of cases in his ten years of service with the Boards of Review/Review Board. Prior to his appointment with the Council, Mr. Devine served as a commissioner of the Workers' Compensation Board of British Columbia.

DARWIN T. BENSON *Chairman, Disputes Resolution Division*

Mr. Benson has many years experience with industry, government and trade unions involving personnel training, negotiation, and administration of collective agreements, and development of labour relations policy. From 1964 to 1979 he was International Staff Representative with the United Steelworkers of America. Mr. Benson was instrumental in forming the Kootenay-Boundary Labour Relations Association, a collective bargaining organization of 24 municipalities. He served as chief conciliation officer, Mountain Region, Labour Canada. From 1982 until his appointment to the Council, he was superintendent of labour relations with Esso

Resources Canada Ltd. at Canada Wide Mines, and at Byron Creek Collieries in British Columbia.

ROBERT J. ARSENEAU *Vice Chairman*

Mr. Arseneau graduated from the University of New Brunswick in 1968 with a Bachelor of Civil Law degree. He was employed as a solicitor with the New Brunswick Department of Justice from 1968 to 1971, where he provided legal advice to numerous government departments and administrative tribunals, including the Department of Labour, and the New Brunswick Labour Relations Board. From 1971 to 1975 he was a partner in a private law firm practicing labour law, representing trade union clients in both the public and private sectors in New Brunswick. He became a member of the Canada Labour Relations Board in 1975 and served five years in that capacity. After admission to the Bar of B.C. in 1981, he joined the labour department of the Vancouver law firm Ladner, Downs, and from 1984 until his appointment with the Council, he practiced labour law in his own law firm. Mr. Arseneau is an experienced adjudicator, and a member of the Arbitrators' Association of British Columbia.

CATHERINE J. BRUCE *Vice Chairman*

Ms. Bruce received an LL.B degree from the University of British Columbia in 1976. After articling with the Vancouver law firm of Shrum, Liddle and Hebenton, she attended the London School of Economics and Political Science, obtaining a Masters of Law with distinction in 1978. Ms. Bruce has considerable labour law experience. She worked for a short time with the Vancouver law firm of Baigent, Jackson, Blair, and was employed as a business representative with the Canadian Airline Flight Attendants' Association, now the Airline Division of CUPE. In this latter capacity, Ms. Bruce appeared extensively as counsel before the Canada Labour Relations Board, arbitration boards, and the Workers' Compensation Review Board. She also negotiated collective agreements and acted as counsel in airline accident inquiries. Prior to her appointment with the Council, Ms. Bruce was a partner in the Vancouver law firm of Braidwood, McKenzie, Brewer & Greyell, practicing labour law.

JOE CROWDER *Vice Chairman*

Mr. Crowder has an extensive background in labour relations in the Province in both the private and public sectors. His experience encompasses railroading, railcar manufacturing, winch manufacturing, truck manufacturing and the negotiation of collective agreements in each of these industries. In 1981 he became the Director of Industrial Relations for the City of Kamloops. At this time, he also became a member of the bargaining committee for the Okanagan Mainline Municipal Labour Relations Association. He presently serves, and has for many years, as Executive Vice-President and member of the Board of Directors with Interlock, a non-profit society providing employee assistance programs to the labour relations community, co-sponsored by management and labour in B.C.

BARRY GOFF *Vice Chairman*

Mr. Goff is an experienced mediator and adjudicator. He served as senior special investigations officer with the Labour Relations Board of B.C. from 1976 to 1984, and as senior labour relations officer with Construction Labour Relations Association from 1984 to 1986. In 1986 he was appointed a vice chairman of the Labour Relations Board of B.C., a position he held until his appointment to the Council.

RICHARD LONGPRE *Vice Chairman*

Mr. Longpre graduated from the University of British Columbia in 1976 with a Bachelor of Commerce degree, majoring in industrial relations. He joined Noranda Mines Limited where over the next four years he negotiated collective agreements and coordinated labour relations policy amongst the Noranda Group of companies in Ontario, the Prairies and British Columbia. In 1981 Longpre joined the Mediation Services Branch of the Ministry of Labour. After three years, he set up an independent labour arbitration and mediation practice. In June 1985, he was appointed a vice chairman with the Labour Relations Board of B.C., a position he held until his appointment to the Council.

HEATHER MCDONALD *Vice Chairman*

Ms. McDonald graduated from U.B.C. in 1979 with an LL.B degree and articled with the Legal Department of the Workers' Compensation Board of British Columbia. After a year of studying administrative and constitutional law in Montreal, she returned to Vancouver where she served as Crown Counsel for the Ministry of Attorney General of British Columbia, and as a consultant to the British Columbia Public Interest Advocacy Centre. In 1983 she joined the Compensation Stabilization Program as legal counsel. In July of 1987 she moved to the Industrial Relations Council where she held the position of legal counsel to the commissioner until her appointment as vice chairman.

ROCHELLE (SHELLEY) C. NITIKMAN *Vice Chairman*

Ms. Nitikman graduated from the University of Manitoba in 1974 with an LL.B degree and articled with the Vancouver law firm of Shrum, Liddle and Hebenton. She was employed as a staff lawyer with the Legal Aid Society of British Columbia, established her own law firm practicing family law, and was appointed by the Ministry of Attorney General as a family court advocate. Ms. Nitikman has considerable adjudication experience. In addition to arbitration appointments, she was appointed in 1980 as a chairman of the Workers' Compensation Boards of Review, and in her five year term adjudicated approximately 4000 cases. Prior to her appointment to the Council, Ms. Nitikman was enrolled in the LL.M program at the University of Dalhousie.

NORA PATON *Vice Chairman*

Ms. Paton graduated from the University of McGill in 1964 with a Bachelor of Nursing degree and from the University of British Columbia in 1976 with a Masters in Education (Adult Education) degree. She has an extensive background in labour relations. Ms. Paton joined the Registered Nurses Association of B.C. in 1969. The labour relations division of the Association subsequently became the B.C. Nurses Union, and Ms. Paton ultimately became its chief executive officer. In her sixteen years with those organizations, she participated in the negotiation and administration of many collective agreements, as well as in the mediation and arbitral processes. In 1980 she was appointed as a part-time member of the Labour Relations Board of British Columbia. In 1986 Ms. Paton was appointed a vice chairman, a position she held until her appointment to the Council.

WALTER PYLYPCHUK *Vice Chairman*

Walter Pylypchuk graduated from the University of Western Ontario with a Bachelor of Laws degree in 1976. He is also a graduate of Brock University, with an honours Bachelor of Arts

degree. He engaged in the private practice of law in the St. Catherine's area, representing a number of unions in labour arbitration , and then spent seven years at Canada Post in the practice of labour law in the area of transportation contracting. He joined the Council in 1989.

EMPLOYER REPRESENTATIVES

CLARE ALCOTT

Former member of the Labour Relations Board and long time MacMillan Bloedel industrial relations executive. For the past decade he has been engaged in an industrial relations consulting service. As well, he has served on the Board of Directors of the B.C. Maritime Employers Association and the Towboat Industrial Relations Association.

ARTHUR BROOMHALL

Former Personnel Manager, B.C. Teachers' Federation, and Personnel Manager, B.C. Hydro (central interior), directing internal employee relations including negotiations, contract administration and grievance processing. He has also served as Director of Personnel, City of Kamloops and before that as Director of Economic Services and Coordinator of Labour Relations, Alberta School Trustees' Association.

MARK LEFFLER

B.C. born and raised. Graduate of U.B.C. - Bachelor of Commerce, 1969. Fourteen years of labour relations experience commencing with Ontario Hydro. Served as Manager of Labour Relations, B.C. Hydro from 1981 - 1986. Presently (from 1986) Manager of Personnel and Industrial Relations, Greater Vancouver Regional District.

A.J. (TONY) POJE

A veteran labour relations practitioner in B.C. who served as an IWA official during the 50's before transferring to management with Crown Zellerbach Canada Ltd. where he eventually rose to the position of Vice-President, Industrial Relations in the 70's. Served for a number of years on the Forest Industrial Relations negotiating committee, and was a Member of the Labour Relations Board from 1984 to 1987. Since his retirement he has acted as an ad hoc consultant in labour relations matters.

PETER RICHARDSON

Former member of the Labour Relations Board, with 25 years labour relations experience in the retail and warehousing industry, both food and non-food products, involving both union and non-union employees for Woodwards Stores. He has broad experience in grievance administration including the preparation and presentation of arbitration cases and acting as a member on boards of arbitration.

DUNCAN WILKINS

Vice President Human Resources, Business Council of B.C., and prior to that General Manager of Human Resources, Cominco. Extensive labour relations experience, including chief negotiator for Cominco. He has served on labour relations committees with the Business Council of B.C. and the Mining Association. Also a member of IRMA and Professional Engineers Association of B.C.

EMPLOYEE REPRESENTATIVES

JACK ADAMS

Former member of the Labour Relations Board, and Director of Personnel Services, B.C. Government Employees' Union, now retired. He also served as a member of the Executive Council of the B.C. Federation of Labour and has many years experience in labour relations in the Provincial Government service.

MONTY ALTON

After many years of service with the local union of the United Steelworkers of America, he rose to the position of International Representative. Based in Vancouver, he held the office of Area Supervisor (encompassing B.C., the Yukon and Northwest Territories) until his retirement. During this time he also acted as a Vice-President of the B.C. Federation of Labour. During Cominco negotiations in Trail and Kimberley he became well-known as the chief negotiator for the Steelworkers.

KEN ANDREWS

Majored in law and economics at Ruskin College, Oxford. Served as President of CUPE, Local 116 representing U.B.C. employees for 17 years. Past Chairman and Member of the Board of B.C.H.A. serving on special committees, and past Member of the Board of Governors of the University of B.C.

BRYAN S. DENTON

Served for 25 years with the Retail Clerks Union from 1962 to 1987, starting out as a Business Agent and rising to the position of President. Served on the B.C. Fed Executive Council, the U.F. & C.W. International Advisory Board and as Chairman, Board of Trustees - Union Pension Fund - Union Dental fund. He has also served on the Board of Directors for C.U. & C. Health Services Society and B.C. Heart Foundation.

JOHN DONALDSON

Former member of the Labour Relations Board. Served for many years as Business Manager, Teamsters, Local 213. Former Executive Board Member of the B.C. Yukon and Building Trades, and also served on the Executive Board of the Allied Hydro Council involved in heavy construction in B.C. including the Peace and Columbia Dams.

JANE GRIMWOOD

Entered the trade union movement in Vancouver becoming a business representative with the Canadian Airline Flight Attendants Association, eventually transferring to Toronto. For some years she served as an investigative officer with the Ontario Labour Relations Board before entering the arbitration field. As a union nominee on arbitration boards she has represented the Labourers' International Union, and adjudicated mini-arbitrations for the United Steelworkers of America. She returned to B.C. in 1986 and remains active in arbitration work.

III STATUTORY AMENDMENTS

The Labour Code was enacted in 1973 and proclaimed in force in several stages throughout 1974. It has been revised many times since then. Some amendments have involved technical refinements only while others have introduced substantive changes. The Labour Relations Board's past annual reports describe the amendments that were made up to and including the year which was the subject of the particular report, and hence this report will not refer to amendments made prior to 1987. Of all the amending legislation, the Industrial Relations Reform Act 1987, S.B.C. 1987, c.24 introduced the most extensive changes with some 64 sections amending the Labour Code. The title of the Code was then changed to the Industrial Relations Act. The Industrial Relations Council was established to continue the adjudicative operations of the Labour Relations Board and to offer interest dispute resolution services as well. A brief summary of the most significant amendments was contained in the 1987 annual report of the Council and interested individuals are directed to that document.

There was one amendment in 1989 to the Industrial Relations Act, R.S.B.C. 1979, c. 212. Section 123.1, which established the Productivity Fund, was amended by the Budget Measures Implementation Act, 1989, S.B.C. 1989, c. 1, s. 5:

Industrial Relations Act

5. Section 123.1 of the Industrial Relations Act, R.S.B.C. 1979, c. 212 is amended

(a) in subsection (1) by striking out "as part of the consolidated revenue fund a fund to be known as the Productivity Fund" and substituting "a special account in the general fund of the consolidated revenue fund to be known as the Productivity Fund Special Account", and by striking out "Productivity Fund out of the consolidated revenue fund" and substituting "Productivity Fund Special Account",

(b) by repealing subsection (2),

(c) in subsections (3) and (4) by striking out "Productivity Fund" and substituting "Productivity Fund Special Account", and

(d) in subsection (4) by striking out "fund" and substituting "account".

The effect of this technical amendment is to bring the provisions of Section 123.1 in line with accepted accounting procedures for administration of the provincial budget as required by the Special Accounts Appropriation and Control Act, 1988.

Under the former section of the Act, the "Productivity Fund" was incorrectly placed into an accounting category known as a "special account" which is intended to cover open-ended, recurring expenditures. In fact the "Productivity Fund" is a non-recurring item with a ceiling of $500,000. Thus it is a "special account". The 1989 amendment to the Industrial Relations Act corrects this oversight by placing the expenditure into the "special account" category.

IV PRACTICE AND PROCEDURE BEFORE THE COUNCIL

The Council issued the following procedural memoranda in 1989:

THE ROLE OF A FACTFINDER

The proclamation of the Industrial Relations Act amended the Labour Code in significant fashion. One of the most important amendments was the introduction of a new section to the legislation entitled "Part 8.1 Disputes Resolution". Part 8.1 offers a comprehensive array of dispute resolution mechanisms, some of which are new to British Columbia law and some of which are familiar. "Fact finding" is one of the latter. Section 5 of the former Essential Service Disputes Act provided for a fact finder to be appointed by the Minister upon recommendation of the Essential Service Advisory Agency:

Fact finding

5. (1) Where the agency recommends that fact finding should be a procedure to be followed, the minister may appoint a person as the fact finder.

(2) The fact finder shall confer with the parties and inquire into, ascertain and make a report setting out the matters agreed on by the parties for inclusion in a collective agreement and all matters remaining in dispute between the parties, and the fact finder shall, in his report, include his findings in respect of any matter that he considers relevant to the conclusion of a collective agreement, and may recommend terms of settlement of all matters remaining in dispute.

(3) The fact finder, in carrying out his duties,

(a) may require an employer or trade union to provide him with information, and the employer or trade union, as the case may be, shall promptly comply with the request;

(b) has all the powers, protection and privileges of a commissioner under sections 12, 15 and 16 of the Inquiry Act;

(c) may determine his own procedure, but shall give an opportunity to the employer and trade union to present evidence and make representations, and

(d) may receive and accept evidence and information on affidavit or otherwise, as in his discretion he considers advisable, whether or not it is admissible as evidence in court.

(4) The fact finder shall submit a report to the parties, the agency and the minister within 20 days following the date of his appointment, or within such longer period of time as the minister directs.

(5) The report of the fact finder is not binding on the parties but is made for the advice and guidance of the parties, and on receipt of the report the parties shall endeavor, in good faith, to conclude a collective agreement.

(6) Except as provided in subsection (5), no person shall publish or distribute the report of the fact finder; but the minister may publish and distribute the report in any manner he considers advisable.

However, it was not until the introduction of the Compensation Stabilization Program that the fact finding process came into use in British Columbia. The Compensation Stabilization Act provided as follows:

7. The commissioner shall appoint

(a) a compensation mediator who shall, on the direction of the commissioner, provide mediation and fact finding services...

Request for services of a mediator

(11) The commissioner may, on his own motion or on the request of a public sector employer, public sector employee or representative of either of them, direct the mediator to provide mediation or fact finding services to assist the employer, employee or representative to reach or establish a compensation plan in accordance with the requirements of this Act.

Mediator may recommend settlement terms

12. (1) Where the mediator is providing services under section 11 and the commissioner gives his approval, the mediator may, in writing, recommend terms of a compensation plan to the public sector employer, public sector employee or representative of either of them.

(2) Terms recommended by the mediator under this section are not binding on the commissioner."

Fact finding services were used with considerable success under CSP to resolve public sector compensation disputes.

Under the Industrial Relations Act, the Commissioner of the Industrial Relations Council is empowered to appoint a fact finder in respect of a collective bargaining dispute. Section 137.91 of the Act provides:

Fact finding

137.91 (1) The commissioner may appoint a fact finder in respect of a collective bargaining dispute, and he shall give written notice of the appointment to each of the parties to the dispute.

(2) Within 7 days after the receipt of the notice of the appointment of the fact finder, each party shall give written notice to the fact finder and the other party setting out all matters the parties have agreed on for inclusion in a collective agreement and all matters remaining in dispute between the parties.

(3) Where a party fails to comply with subsection (2) the fact finder may make a determination of the matters mentioned in subsection (2).

(4) It is the duty of a fact finder to confer with the parties and to inquire into, ascertain and make a report to the chairman setting out the matters agreed on by the parties for inclusion in an agreement and the matters remaining in dispute between the parties.

(5) The fact finder may include in his report his findings in respect of any matter that he considers relevant to the making of a collective agreement between the parties.

(6) Where the parties to the dispute are a public sector employer and a trade union, the fact finder shall in his report make findings based on the interest arbitration criteria established by section 137.96 to the extent that the criteria relate to matters remaining in dispute between the parties.

(7) The fact finder shall determine his own procedure under guidelines established by the chairman and, where the fact finder requests information from a party, the party shall provide the fact finder with the information requested.

(8) The fact finder has the power and authority of a commissioner under sections 12, 15 and 16 of the Inquiry Act.

(9) The fact finder shall submit his report to the chairman within 20 days after the date of his appointment or after a longer period the chairman approves, and on receipt of the report the chairman shall give a copy of it to the parties.

(10) The report of the fact finder is not binding on the parties, and on receipt of the report by the parties they shall endeavor in good faith to make a collective agreement, or to renew a collective agreement, as the case may be.

(11) The chairman is not obliged to make public the report of the fact finder, but may make it public if he considers it desirable to do so.

It is interesting to compare the fact finding processes under these three pieces of legislation. The Essential Service Disputes Act contemplated a highly formalized process. For example, under Section 5 (3) (c), the fact finder was required to give the parties an opportunity "to present evidence and make representations." This suggests something akin to a hearing process, although the fact finder was entitled to determine his own procedure. The fact finder was afforded the powers and rights of a Commissioner of Inquiry under the Inquiries Act, and was able to receive and accept evidence and information that might not be admissible in court. The fact finder was obliged to make a report which could be made public only by the Minister; otherwise only the parties, the Agency and the Minister would receive the report which was intended to assist the parties to reach a collective agreement. These provisions paint a picture of an independent objective inquiry, relatively formal in nature, soliciting facts that have the potential to help the parties move closer to resolving their differences.

By contrast, the Compensation Stabilization legislation contemplated that the mediator would provide fact finding services at the commissioner's direction. No terms of reference or formalized process of inquiry are set out in the legislation. Although a distinction is clearly drawn by the legislation between mediation and fact finding services, no special powers of inquiry are afforded the fact finder. Accordingly, fact finding appears to be a less formal method of inquiry under the CSP legislation, linked inextricably to the role of a mediator who is assigned the duty of fact finding in certain circumstances.

The Industrial Relations Act treats fact finding in a manner reminiscent of the Essential Service Disputes Act. In determining his own procedure, the fact finder must follow "guidelines" set by the DRD chairman. He (or she) has the power and authority of a commissioner under the Inquiry Act, a duty to inquire into the dispute and make a report to the DRD chairman. Where the employer is a public sector employer, the fact finder's report must, where necessary, apply the interest arbitration criteria set out in the Act. Finally, just as in the ESDA, a fact finder's report may be made public if the DRD chairman considers it desirable to do so. Thus the process is a formal one. However, unlike the ESDA legislation, the Industrial Relations Act makes no express mention of a fact finder being required to allow the parties to "present evidence and make representations." This suggests more latitude for a fact finder in determining his own procedure: in many cases the fact finder may decide that an informal procedure is appropriate.

What more can one say about the role of a fact finder under the Industrial Relations Act? One important matter concerns the circumstances when it will be appropriate to appoint a fact finder rather than, for example, a mediator. It is important to note that a fact finder is appointed at the discretion of the commissioner. It is not only impossible but also undesirable to develop general rules or policies regarding the exercise of the commissioner's discretion in this regard. It is obvious that a fact finder will not be an appropriate dispute resolution mechanism in every case. It is a matter for the commissioner's judgment to decide when a particular dispute calls for the appointment of a fact finder rather than one of the other mechanisms provided for in the legislation. In a particular case, a fact finder may, in the course of his inquiry, be presented with an opportunity to employ mediation skills to assist the parties in resolving their dispute. However, the focus of his duties is one of objective inquiry and observation, and recommendations concerning the dispute. Fact finding provides the parties with an objective base of information for their consideration. Predictably, the formal observations of the third party who is divorced from the pressures of collective bargaining may be instrumental in assisting the parties to adopt a different perspective on the matters in dispute. Predictably, then, the commissioner will exercise his discretion to appoint a fact finder where he perceives that the dispute requires a more formal, information-gathering approach than mediation is intended to provide. As noted earlier, the Compensation Stabilization Program used both mediation and fact finding services with considerable success in resolving public sector compensation disputes. Whether public or private sector disputes are involved, either mediation or fact finding (or both) may be appropriate, but the individual circumstances of each case will dictate the commissioner's choice of a dispute resolution mechanism.

A significant difference between a mediator's report and a fact finder's report is that a fact finder's report may be made public at the discretion of the D.R.D. chairman. Thus parties involved in a dispute will understand, when advised about the appointment of a fact finder, that details of their dispute may eventually be made public. This prospect might motivate the parties to review their bargaining positions and bargaining agendas, with a view to adopting a stance more conducive to reaching an agreement. This could be one consideration influencing the commissioner's decision to appoint a fact finder rather than a mediator in a particular case.

Who will be appointed as a fact finder? Under CSP, mediators were appointed as fact finders. It is possible that D.R.D. mediators will also be utilized as fact finders under the Industrial Relations Act; it will be important that they understand the different role and mandate which fact finding imposes on them. In some disputes, specific industry expertise or a heightened perception of independence from government may be important factors leading to the appointment of non-Council employees as fact finders. To this end it is logical for candidates outside of government to be selected, based on their expertise and experience in labour relations and their credibility as an independent third party. A roster of such individuals should be established so that no time is wasted searching for a candidate when a dispute is ripe for the introduction of a fact finder.

Conclusion

Mediation and fact finding are qualitatively different processes. We will analyze the circumstances of each dispute to assess whether mediation or fact finding (or another dispute resolution mechanism) would be an appropriate choice to resolve the parties' impasse. Predictably, mediation and fact finding will be employed to the advantage of the labour relations community, and the particular facts of each dispute will dictate which is the most appropriate resolution mechanism.

STRIKE NOTICE

Sections 81(3)(b)(ii) and 82(3)(b)(ii) of the Industrial Relations Act prohibit any strike or lockout unless written notice of the strike or lockout has been filed with the chairman of the Disputes Resolution Division (the "chairman"). Filing the notice triggers the 72 hour waiting period preceding a strike or lockout.

The following procedure has been developed by the Council to assist the parties in complying with the legislation.

Notice Filing

Filing takes place when a written notice is delivered to the chairman. Notice by personal delivery, mail, courier or facsimile are acceptable to the Council but oral messages are not because the legislation specifically requires service in writing.

The written notice should be delivered during normal business hours Monday to Friday excluding statutory holidays to:

Chairman, Disputes Resolution Division
Industrial Relations Council
8th Floor, 1125 Howe Street
Vancouver, B.C. V6Z 2K8

The appropriate fax number is (604) 660-7321.

The chairman will accept notice outside of ordinary business hours, and will make every reasonable effort to accommodate the needs of the filing party. Practicalities require that special arrangements be made in advance.

Calculation of the Waiting Period

Filing the notice with the chairman in the manner described above during ordinary office hours triggers the waiting period as does personal service outside ordinary business hours. Notices delivered to the council premises outside normal business hours will be treated as if they were delivered at 8:30 a.m. of the next business day.

Acknowledgement of Written Notice

Although not required by the legislation, the chairman will acknowledge receipt of written notice to the person filling it. He will also confirm the time at which filing took place so that no misunderstandings can arise in terms of calculation of the waiting period.

DISPOSITION OF APPLICATIONS

Disposition by the registrar: A large number of cases are decided on a strictly administrative basis. A policy has been implemented whereby the registrar may summarily dispose of certain applications. Such applications include:

- simple variance applications involving a change in name or address
- applications under Section 96(1) which cannot be resolved by an investigating officer and should appropriately be referred back to the parties to be dealt with through the dispute resolution mechanism in their respective collective agreements
- decertification applications under Section 52(8) where no persons have been employed in the bargaining unit for the two year period stipulated and the statutory requirements are otherwise met
- applications for decertification under Section 52(2): ordering a representation vote, and, if no unfair labour practice is alleged, cancelling the certification
- applications for deaccreditation which meet the statutory requirements
- applications to withdraw
- applications under Sections 36 and 108 which are out of time and for which no valid argument for untimeliness is presented
- such other applications as lend themselves to summary disposition

Other Dispositions without a Hearing: Other kinds of cases are also processed without a formal hearing. The application or complaint is investigated by an industrial relations officer of the Ministry of Labour who files a report with the Council. This report, together with the parties' submissions, is reviewed by a panel of the Council. If the matter can be decided upon the basis of the materials on file, a decision is made without a hearing.

In cases which are contested, the Council often attempts to achieve a voluntary resolution before proceeding to the stage of a formal hearing and adjudication. This may involve the efforts of an industrial relations officer or special investigating officer, for example. This policy is especially important in the following areas: unfair labour practice complaints, Section 96(1) disputes, and strikes and picketing complaints. In these areas, the Council achieved a voluntary accommodation in approximately half of the cases.

Hearings: Contested cases which are not settled and which cannot be decided on the basis of the materials on file will be the subject of a hearing before the Council. With respect to applications for certification for units of unorganized employees, a hearing is always held. Section 43(1) of the Act requires that a representation vote ordered by the Council on a certification application must be conducted within ten days after the date of the application. Accordingly, certification applications must be heard expeditiously by the Council, with objections to the application being raised at the hearing. As well, pursuant to Section 2(5) of the Act, where no collective agreement respecting a unit is in force and a complaint is filed with the Council alleging that an employee has been discharged from employment because of the exercise of a right conferred by the Act, the Council must commence a hearing on the complaint within five days of its filing, unless the complaint is settled or withdrawn before then.

In 1989, the Council held 730 hearings, an increase of 25 over the number held in 1988. Included were 381 expedited certification hearings.

Published Decisions: In contested cases that are unresolved by the parties, the Council's general practice is to give written reasons for its decisions. These formal decisions explain the Council's findings to the immediate parties and lay down general guidelines about the Council's policy and interpretation of the Act. The formal decisions are numbered and are made available to unions, employers, legal counsel and other interested persons.

In addition to its formal decisions, the Council issues decisions in letter format from time to time which contain brief reasons or no reasons at all, and which have no precedential value other than to the particular parties to the application.

Decisions which the Council believes will constitute important precedents for the future are incorporated in a series entitled the Canadian Labour Relations Boards Reports (New Series), which is published by Butterworth & Co. (Canada) Ltd.

V HIGHLIGHTS OF COUNCIL DECISIONS

Compulsory BCTF Membership

The Industrial Relations Act which came into force in July of 1987 contains new provisions governing union membership. Briefly, those provisions concern fair and reasonable conditions of union membership, prohibited discriminatory practices, and union security. Relevant sections 5(2), 5.1 and 9 are reproduced here:

5. (2) No trade union shall

(a) expel, suspend or impose a penalty on a member or refuse membership in the trade union to any person, or impose any penalty or make any special levy on any person as a condition of admission to membership of the trade union or council of trade unions except for a cause which is in the council's opinion fair and reasonable, or

(b) charge, levy or prescribe initiation fees, dues or assessments that are deemed by subsection (4) to be discriminatory, or that are in the council's opinion unreasonable or discriminatory.

[Several actions which are specifically deemed to be unreasonable or discriminatory are enumerated.]

5.1 (1) No trade union and no person acting on behalf of a trade union shall require an employer to terminate the employment of an employee, or otherwise to discriminate against an employee in regard to employment or a condition of employment, because the employee has been expelled or suspended from membership in the trade union, or because membership in the trade union has been denied or withheld from that employee.

(2) Subsection (1) does not apply where the expulsion or suspension from membership, or the denial or withholding of membership, was occasioned by

(a) failure by the employee to pay the pericdic dues, assessments and initiation fees uniformly required to be paid by all members of the trade union as a condition of acquiring or retaining membership in the trade union, or

(b) activity by the employee against the trade union contrary to this Act.

9. (1) This Act shall not be construed as precluding the parties to a collective agreement from inserting in it a provision

(a) requiring membership in a specified trade union as a condition of employment;

(b) granting preference in employment to members of a specified trade union; or

(c) precluding the carrying out of such provisions.

(2) Notwithstanding subsection (1), a trade union or person acting on its behalf shall not require an employer to terminate an employee due to his expulsion or suspension from that trade union on the ground that he is or was a member of another trade union.

The interplay of these new statutory requirements was addressed for the first time in **Joan Harper, Arlene Cook, Rick Spier and Terrilyn Lapthorne, IRC No. C211/89** ("Harper and Cook"), where teachers from Vancouver and Burnaby opposed compulsory membership in the BCTF and other teacher's associations as a term and condition of employment in their respective collective agreements. They argued that such a provision ought not to be legally incorporated in a collective agreement and that it was unreasonable or unfair of their local association to require membership in other than their certified union as a condition of membership in the association. They also contended that the dues deduction structure which provided for a direct contribution to the BCTF from individual pay-cheques breached the Act.

Some aspects of the inter-organizational arrangement were upheld by the panel but others were not. Closed shop provisions in a collective agreement which render membership in a union other than their certified union a condition of employment were found to be unenforceable, but it was considered fair and reasonable for the local association, by way of interlocking constitutional provisions, to require its members to belong to a parent organization as a condition of membership in the local association. Similarly, the panel upheld the association's right to structure its dues in a manner which requires payment to other organizations such as the BCTF and to collect those dues retroactively even though the membership structure does not conform to the statutory requirements.

Unfair declarations and Sections 4.1 and 9.1

The validity of unfair declarations in light of the new statutory provisions in Sections 4.1 and 9.1 were addressed in **Stuart Olson Construction Inc., IRC No. C247/89 (reconsideration of IRC Letter Decision December 16, 1988, and Reasons, IRC No. C49/89)**. The litigation arose from an unfair declaration made by the union District Trades Council affecting Stuart Olson, an Alberta construction company which was attempting to expand its operations into this Province.

The original panel found that the unfair declaration, made with the intention of preventing Stuart Olson from establishing itself in the Province of British Columbia, was contrary to Section 90. Although unnecessary for purposes of concluding the case, the panel went on to discuss Sections 4.1 and 9.1. It opined that 4.1 prohibited union label clauses and unfair declarations with an organizational intent, and that Section 9.1 restricted the use of non-affiliation and contracting-out clauses aimed at the terms and conditions of employment or the unionized status of the employees of another employer. An unfair declaration which is organizational in intent breaches Section 90. Section 4.1 expands this restriction to cover such clauses that are organizational in effect. Section 9.1 invalidates non-affiliation and contracting-out clauses outside the construction industry unless the clause is employed in situations where there is a reduction in bargaining unit work.

The reconsideration panel modified these findings. Like the original panel, it found that the imposition of economic sanctions, as a motive for an unfair declaration, was improper under Section 90 of the Act--it was inconsistent with Part 5 of the Act and unnecessary for the reasonable advancement and protection of the District Trades Council which issued the declaration. However, the reconsideration panel expanded the scope of Section 4.1 beyond that

found by the original panel. It concluded that 4.1 may void any clause (not just the aforementioned union label clause and unfair declarations) in a collective agreement in which the employer undertakes not to deal in the products of another employer or cease doing business with another person. It also extended the interpretation of Section 9.1 to apply to any agreement targeting the employees of another employer for membership in a trade union, not just non-affiliation and contracting-out clauses. As for the relationship between Sections 4.1, 9.1 and 90, the reconsideration panel concluded that a clause which met the construction exemption in Section 9.1 will not be struck down under Section 4.1, but a clause which withstands scrutiny under Section 4.1 may then be examined in light of Section 90.

Individual Rights

Rights conferred on individuals by the Industrial Relations Act received considerable attention in several Council decisions this year. These cases include **Justin and Nancy Wasilifsky, IRC Nos. C169/89 and C229/89; Zantolas, IRC No. C96/89; Certain Employees of White Spot Unit 104, IRC No. C148/89;** and **Harper and Cook, IRC No. C211/89.**

One of the most controversial decisions, **Justin and Nancy Wasilifsky, IRC Nos. C169/89 and C229/89,** concerned the scope of religious exemption from union membership in Section 11 of the Act. The Wasilifskys are teachers and devout Christians who applied for an exemption from membership in their union on the basis of their religious opposition to BCTF policies which they say run contrary to the teachings of the Church, and specifically, the policy on reproductive freedom. Formerly, the test set out in Cliff Straub, BCLRB No. 11/76; [1976] 1 Can LRBR 261, governed exemptions, the essence of which was to exempt individuals who objected on religious grounds to membership in all trade unions. As a consequence of the Wasilifsky decision, the exemption may apply as well to individuals who object on religious grounds to membership in a particular trade union.

The decision generated allegations of bias against one of the vice-chairmen on the panel and the advising Council staff lawyer, on the basis of their individual activities in support of "pro-life" organizations. According to the applicants, such activities raised an apprehension of bias that tainted the decision on the merits. But that complaint was dismissed in IRC No. C229/89 by Chairman Albertini:

> The suspicion of bias, however, must of course be founded on fact and not mere conjecture. The party claiming bias must adduce evidence in support of its allegation that is sufficient to negate the assumption of good faith....[T]here is an assumption that those holding statutory decision-making powers will act properly and in good faith....The best that can be said about the Applicants['] case against [the vice-chairman], is that it is very weak....The case made against [the advising staff lawyer] is even less compelling.
>
> (at 10-11)

Reconsideration of Wasilifsky, on the merits and on the bias, was before the Council at the end of the calendar year.

The scope of a union's power to expel its members according to Section 5 of the Act was explored in **Rocky Zantolas, IRC No. C96/89,** where Zantolas was expelled from the Teamsters Local Union No. 213 for failure to pay dues. Ultimately the Council reinstated him to membership in the local union because his failure to pay dues was inadvertent and the Council

found that the Legislature could not have intended to give the union a right to expel in such circumstances. It was decided that Section 5 requires a four-step analysis of the actions complained of. First, does the action fall into one of the categories specified in Section 5(2)? Second, if it does, is it expressly covered by Section 5(3) or 5(4)? If it falls under 5(3) or (4), it is deemed unfair or unreasonable. Third, if not covered by 5(3) or (4), the Council must ask whether in its opinion the action is unfair or unreasonable. Last, where there is a breach of the section, what is the appropriate remedy? (see judicial review page 35).

The circumstances under which employees can withdraw from a bargaining unit were examined in **Certain Employees of White Spot Unit 104, IRC No. C148/89 (reconsideration of IRC No. C70/89)**, where employees at the Broadway/Larch White Spot location applied for a representation vote which would lead to their eventual removal from the bargaining unit. In granting this request the original panel articulated a two-part test. First, has there been a change in circumstances and, second, are the circumstances such that the employees are no longer appropriately included in the existing bargaining unit? The reconsideration panel upheld the result of the original panel but disagreed with the two-part test, reaffirming the one-part test as outlined in Westar Timber Ltd., BCLRB No. 47/87: does the evidence establish that it is no longer appropriate to include the employees in the existing bargaining unit?

Successorship and Section 53

Provisions governing successorship rights were altered under the Industrial Relations Act. For example, the skills and ability of an individual can no longer form the basis of a successorship, nor can the mere performance of similar functions at a location occupied by a former business entity (see Sections 53(1.1) and (1.2)). This year saw a number of decisions in the hotel and restaurant business which clarified the scope of the changes. Some of these are highlighted here including **290288 B.C. Ltd., IRC No. C68/89; Granville Island Hotel & Marina Ltd., IRC No. C258/89 (reconsideration of IRC No. C123/89); Heathwood Resorts Ltd., IRC No. C246/89 (reconsideration of C160/89)**; and **The Three B's Enterprises Ltd., IRC No. C253/89.**

In **290288 B.C. Ltd., IRC No. C68/89**, the panel commented on the significance of the 1987 amendments:

> [T]he 1987 amendments to Section 53 were not intended to create new obstacles for unions seeking successorship declarations. Rather, they were intended to provide a legislative reminder that the focus when deciding whether there has been a successorship is on whether there has been a transfer of a business. A business cannot be only a collection of assets, or a location, or the skills or expertise of one person. The fact that a new business is conducted at a particular location where a predecessor employer certified to a union formerly conducted its business, or that a major force behind a new business is a person whose skills and expertise were essential to a certified predecessor employer's business, continue to be important factors to be considered. But each of these circumstances alone cannot result in a successorship, because a business, as stated above, is an organization which is a "combination of physical assets and human initiative"....
>
> (at 9-10)

It reaffirmed the test of successorship as put forth in **Keadd Holdings Ltd.**, IRC No. C42/88, that is whether there is a discernible continuity between the business operated by the predecessor employer and that of the new employer, and whether the second business is a manifestation of the predecessor's entire business or a substantial part of it. It also reaffirmed the multi-faceted approach in Lyric Theater, BCLRB No. 38/80, where the predecessor Board emphasized that successorship was the product of a combination of a number of factors, not just one. On the facts of that case, a successorship was not found where a new restaurant and hotel business operated at the same location as an earlier restaurant and hotel. Merely performing similar work at the same location was insufficient to find a successorship.

The significance of renovations to a restaurant operation was also addressed in **Granville Island Hotel & Marina Ltd.**, IRC No. C258/89, where the employer purchased an on-going restaurant business in severe financial distress, closed it for several months and made extensive renovations. The operation changed its menu and marketing strategy but hired the head chef, two sous-chefs and the marketing director from the previous operation. On these facts, the original panel found no successorship, but this decision was overturned by a reconsideration panel which said:

> The same work is being performed at the same location, there has been a transfer of management personnel, assets of some significance to the business have been transferred, and Harbour Centre and the Granville Island Hotel were in direct contact with each other for months while negotiating the lease. And finally, a landmark location such as the revolving restaurant on top of the Sears Tower in itself constitutes a degree of goodwill....
>
> (at 9)

In the result, the reconsideration panel concluded that the renovations, however extensive, did not create a new business but rather changed the ambience of the restaurant so that there was a discernible continuity of the original business in the successor operation.

The Three B's Enterprises Ltd., IRC No. C253/89, concerned the operation of a restaurant in Queen Elizabeth Park and whether the purchaser of the predecessor's assets was bound by the existing collective bargaining obligations. All of the assets of the first business were transferred to the purchaser, even though ultimately 60% of them were discarded, sold or given away. Nevertheless, the panel found a successorship. Transfer of the lease was a critical factor in the decision because it imposed the same obligations on either company:

> The successful transfer of the lease was a condition precedent to the completion of the Agreement of Purchase and Sale. The key asset, assigned to 3306 Investments [the present holding company] at a cost of $400,000.00, was the renewed lease. This provided the SIP [Seasons in the Park] restaurant with the location in Queen Elizabeth Park, an ideal place for a first-class restaurant. The lease carried with it not only the obligation to continue operating a first-class restaurant, but also obliged the leaseholder to renovate the building in a manner proposed by the predecessor employer as a term of the renewal of the lease. In other words, had the sale not been

> completed, the Parks Board could have required the Bollmans [previous lease-holders] to make renovations similar to those undertaken by 3306 Investments. Perhaps not on the same scale but the floor would have been elevated, the gift shop would have closed, and some work would have been done in the kitchen. The elevation of the floor would have reduced the ability of the Three B's [Quarry House Restaurant] to accommodate groups and with the additional view seats attracted more business. Under the terms of the lease, Davies [president of 3306 Investments] cannot change the business to a fast food outlet or a drive-in restaurant. He is obliged to operate a "first-class restaurant" as were the Bollmans.
>
> (at 25-26)

The panel pointed out that in the restaurant industry where changes in food, service and decor are often made in order to keep the business competitive, collective bargaining obligations could not be avoided merely because of a change in restaurant ambience.

Finally, **Heathwood Resorts Ltd., IRC No. C246/89 (reconsideration of C160/89)**, provided an example where major renovations to a business resulted in a new business operation that did not justify a successorship. Unlike the previous cases, the only linkage between the new operation and the old one was the transfer of the building shell and the rights to a liquor licence. The old business included a bingo operation and a beer parlour (which were later discarded) and had a reputation referred to in the original decision as "unsavoury". By contrast, the new business was a European-style guest house that catered to an upscale tourist clientele. Furnishings from the old operation were completely unsuited to the new operation and were donated to social service agencies while the transfer of goodwill was discounted as a matter of form rather than substance. The sale amounted to "little more than a transfer of the premises" (at 6) so that the new business operation was qualitatively and quantitatively different from the old.

Edco Construction Company, IRC No. C195/89, involved an application by a road maintenance company, Capilano, to be declared the successor of a road construction company, Edco. If Capilano was found to be the successor, the Edco collective bargaining obligations under the Roadbuilders' Construction Agreement with the Operating Engineers, Tunnel and Rock Workers Teamsters, would be merged with and eventually superseded by Capilano's collective bargaining relationship with the BCGEU. The same principals were involved with Edco and Capilano, even though the two businesses were separately operated. Capilano assumed two Edco contracts and used some equipment formerly owned by Edco. But prior to the merger, Edco was all but dormant and the company principals were extremely pessimistic about the future viability of the business. By contrast, they were very hopeful about Capilano's possibilities for increased business. A precondition to the application of Section 53 is the disposition or transfer of a business, and on the facts of this case the Council was not convinced that the precondition existed. In the words of the panel, the "merger of Capilano and Edco is an intra-corporate transfer" and not a "disposition or transfer ... between arm's length business entities." Thus, Capilano's application was unsuccessful and any road construction work continued to be done subject to the Roadbuilders' Agreement.

Remedial Authority of the Council

In addition to the comments made about the Council's remedial powers by the courts on the section dealing with cases on judicial review, it is useful to examine the decision in **White Spot Limited, IRC No. C57/89 (reconsideration of IRC No. C7/89)**, where the Council issued a unique remedial order requiring the employer to publish advertisements apologizing for an unfair labour practice. The case began when the employer placed ads in local newspapers intended to communicate directly with its employees concerning the progress of collective bargaining. The panel found these ads to be highly critical of the union and inaccurate; consequently, the employer was found to be in breach of its duty to bargain in good faith and to have interfered with the administration of a trade union:

> [T]here can be no doubt that an essential principle which underlies most if not all remedial decisions within the labour context is that relief must be compensatory and not penal in nature....Simply stated, the complainant should be put so far as it is possible to do so, in the position it would have been in had there been no violation of the Act. However, the mere fact that a remedy is novel does not make it unreasonable....Moreover, orders issued in respect of a statutory breach will generally be appropriate where there is a relation between the breach, its consequences and the remedy....
>
> The requirement to publish the findings and conclusions of a labour tribunal, where an unfair labour practice has been committed, is not unprecedented....Although this type of remedy usually involves a posting at the employer's premises or a letter to employees rather than an advertisement in the local newspaper, the panel is of the view that the publication order in this case is justified given its clear connection with the unfair labour practices and the consequences flowing therefrom.
>
> (at 17-18)

The remedial authority of the Council can be creatively used and is limited by the following: there must be a link between the breach of the Act, the consequences flowing from the breach, and the remedy awarded to the successful party.

New Evidence

Early in the year **Foremost Foods Ltd., IRC No. C42/89**, outlined the test for the admission of new evidence acquired after the issuance of an award. The case arose in the context of a Section 108 appeal from a grievance arbitration award where the union, following the conclusion of a hearing, sought to introduce medical reports that would negate certain findings of the arbitrator. But the arbitrator declined to hear the evidence on the ground that he was functus officio. In granting the Section 108 application of the union to overturn the arbitrator's award, the Council remitted the matter to the arbitrator for reconsideration in light of the new evidence. While acknowledging that the equities of the situation called for a tendering of this evidence, the Council emphasized the importance of speed and finality in the resolution of disputes arising out of a collective agreement and the need for stringent conditions under which to admit newly acquired evidence. It outlined three conditions. First, the evidence must be

tendered as soon as it is acquired and in any event within a reasonable time of the first award. Second, the party seeking to adduce the evidence must show that through diligence, the evidence would not have been available before publication of the award. And lastly, the evidence must be relevant and material to the issues in dispute and should render doubtful the wisdom of the award.

Scope of Reconsideration

Another important procedural matter which arose this year is the scope of reconsideration and the perennial question as to whether it is appropriate to file a reconsideration application where the ground is reduced to disagreement with the factual determinations of the original panel. This is a matter of some concern to the Council since many applications for reconsideration do not explicitly take issue with the original decision on the traditional grounds outlined in Western Cash Register (1955) Ltd., [1978] 2 Can LRBR 532, and Robinson Little and Co. Ltd., BCLRB No. 32/75, [1975] 2 Can LRBR 81, but rather serve to invite the reconsideration panel to substitute its own opinion for that of the original panel. In **The Corporation of the District of West Vancouver, IRC No. C166/89 (reconsideration of IRC No. C115/89)** and **PCL Industrial Constructors Inc., IRC No. C151/89**, this matter was discussed at length. West Vancouver made clear that disagreement with factual determinations cannot be the basis of a successful reconsideration application, and discredited **Oakmont Industries Ltd., BCLRB No. C4/83; (1983) 1 CLRBR (NS) 367**, which supports reconsideration on the basis of inferences drawn from facts set down by the original panel. In the context of a Section 108 application, PCL reaffirmed a narrow approach to review of factual determinations:

> Noting that findings of fact will rarely be reviewed in applications pursuant to Section 36, it noted two narrow exceptions. First, the review panel must be in as good a position to reach a factual conclusion as the original panel (see **Crown Life Insurance Company Limited, BCLRB No. 52/81, [1981] 3 Can LRBR 227 at 229** and **Oakmont Industries Limited, BCLRB No. 219/84 at 2**). Second, a fact relied upon in reaching its conclusion was not properly before the original panel (see Board of School Trustees of School District No. 39 (Vancouver), BCLRB No. 16/87 at 8). Under Section 108, the Council will also apply these criterion in limited circumstances. However, our discretion is further limited by the fact arbitration is a private matter arising out of the terms of a collective agreement negotiated by the parties.
>
> (at 7-8)

Rather than expanding the categories of reconsideration outlined in Western Cash Register and Robinson Little, the Council is moving to restrict them.

Interest Arbitration Appeals

Section 137.96 of the Industrial Relations Act governs public sector interest arbitration awards in British Columbia, outlining factors which such a board must bring to its deliberations. These include terms and conditions of employment of similar occupations in other relevant communities in the Province; the need to maintain internal consistency amongst employees of

this employer; the skill, effort and responsibility of the employees and the nature of their work; the cost of the parties' proposals, and other relevant factors. Ability to pay of the public sector employer is the paramount factor. Subsection (10) confers a right of appeal from an interest arbitration award to the commissioner who can review an interest arbitration award to ensure that it is consistent with the above principles and that the parties to the arbitration received a fair hearing. There were two such appeals this year and they are reviewed here.

The first was **Corporation of the City of Vernon, IRC No. C212/89**, where Commissioner Peck considered an arbitration award granting a 2.5% increase to fire fighters in Vernon. The employer appealed to the commissioner, saying the City did not have the ability to pay the increase. The union opposed the appeal on the grounds that the award was appropriate because the arbitration board considered fire fighter salaries in other "relevant" communities including Kamloops and other Okanagan communities and Vancouver; salary levels of other civic employees; skills and responsibilities assumed by the fire fighters; and duties and salaries of fire fighters compared to those of the Royal Canadian Mounted Police posted in Vernon. The "ability to pay" of the City required the arbitration board to consider existing revenues, pertinent fiscal policies and existing public service levels without substituting its own opinion for that of management. In upholding the award of the arbitration board, the commissioner discussed several important procedural and substantive considerations about his powers under Section 137.96 of the Act, outlining his basic approach this way:

> Consequently, where an Arbitration Board has seriously addressed the question before it and given due consideration to the respective merits of the positions of each party, the commissioner will not lightly interfere with its findings or recommendations unless it has committed an error of law. In general, a Section 137.96 review may not be employed as a mechanism to re-assess judgments best left to the original tribunal. This includes such matters as credibility of witnesses and weight of expert testimony, or procedural rulings, such as whether it is appropriate to grant an adjournment or whether there is a right to cross-examine a witness with reference to specific areas of questioning. Instead, it will be confined to correcting deficiencies in the application of the law or to rectify any procedural difficulties which amount to the denial of a fair hearing.
>
> (at 4)

This case also settled certain important procedural questions in relation to the time limits under this section. In **Corporation of the City of Vernon, IRC No. C155/89**, the commissioner permitted an appeal to proceed even though it was filed one day after the seven-day time limit. He concluded that the time limits were directory rather than mandatory and that in certain circumstances it was appropriate to allow the application. Here, the importance of the issues and the lack of prejudice to the union were critical.

A similar time-limits argument was unsuccessful in the other Section 139.96(10) appeal, **Board of School Trustees, School District No. 34 (Abbotsford), IRC No. C270/89**, where the commissioner considered the award of an interest arbitration board that established union security provisions and compulsory membership in the local association in the Abbotsford teachers' agreement. Even though the application was filed one day outside the seven-day time limit, the commissioner nevertheless proceeded with his review. Certain elements of the interest

arbitration award were overturned as violating Section 65(3) of the Act which prohibits a collective agreement from containing provisions that are in breach of the Act. Contemporaneous to the arbitration award was a decision of the Council, **Harper and Cook, IRC No. C211/89**, which ruled that a collective agreement could not require membership in the British Columbia Teachers' Federation as a term and condition of employment. In the result the arbitration award, which required BCTF membership as a condition of employment, could not be allowed to stand in its entirety.

Another important procedural matter settled in Abbotsford included the standing of several teachers (members of the bargaining unit bound by the collective agreement who, by agreement, were given standing before the arbitration board), and the standing of the BCTF which made representations on the matter for the first time on the Section 137.96(10) application. In a liberal interpretation of the Council's power, the commissioner concluded that as persons bound by the collective agreement, the individual teachers should be given standing. He also concluded that the BCTF was entitled to be heard because its interests were affected in a direct and material way given that the case dealt with the dues structure and the status of mandatory membership under a new legislative scheme.

VI JUDICIAL REVIEW

Following is a list of court cases decided in 1989 which reviewed decisions of the Council. The list does not include court cases which reviewed decisions of the Labour Relations Board.

1. Pacific Press Limited v. Vancouver - New Westminster Newspaper Guild, Local 115 and Industrial Relations Council et. al. (16 February 1989) reported at 34 B.C.L.R. (2d) 339 (B.C.C.A.).

The employer's appeal of the British Columbia Supreme Court ruling that the Council's reconsideration decision was not patently unreasonable was dismissed. The Council had refused to vary a decision of the Labour Relations Board which had held that the unions had not engaged in an unlawful strike by refusing to handle "hot" advertising copy. The Board decision had been upheld on judicial review as being in error on its interpretation of the definition of the word "strike" in the Labour Code but not so patently unreasonable as to justify intervention by the Court. The employer, on the basis of the Court's comments as to "error made", had requested the Council to reconsider the Board decision based on the Court's interpretation of the relevant legislation. Upon the Council's refusal to vary the Board's decision, the employer again sought judicial review. On dismissing the application, the Court of Appeal held that it was not open to the Court to order an administrative tribunal to apply the Court's view of the law where there was more than one reasonable interpretation to be given to the legislation.

2. Teamsters Local Union No. 213 v. United Contractors Ltd. et. al. (23 February 1989) Vancouver CA008835 (B.C.C.A.).

The union's appeal of the British Columbia Supreme Court ruling dismissing an application for judicial review of a cease and desist order made by the Council was again dismissed. The Council had declared that the union had violated Section 79 of the Industrial Relations Act. Finding that the matter gave rise to a complexity of labour issues, the Court of Appeal refused to embark on judicial review simply of an order made by the Council without having before it the opinion of the Council as to both the facts and the law.

3. White Spot Limited v. Food and Service Workers, Local 112 of Canadian Association of Industrial, Mechanical and Allied Workers and Industrial Relations Council of British Columbia (16 May 1989), Vancouver A891204 (B.C.S.C.).

The Council had ordered the petitioner to publish a notice in a number of newspapers stating that the petitioner had knowingly misled its employees and the public concerning the union's position at the bargaining table and the reason for the closure of two of its restaurants. The Council had filed its order with the Supreme Court under Section 30 at the request of the union. The petitioner applied for a stay of the order pending review by the Court on the basis that the order was punitive. The Court refused the application.

4. Teamsters Local Union No. 213 v. Rocky C. Zantolas, Industrial Relations Council, and Attorney General of British Columbia (24 October 1989), Vancouver A891243 (B.C.S.C.).

The union sought to set aside a reconsideration decision of the Council which had held the union's decision to suspend a member and strip him of his seniority for failure to pay three months of union dues was a true penalty under Section 5 and unreasonable. The Council had restored the member's seniority. The Court, in dismissing the petition, found the Council's decision was not patently unreasonable and indeed was correct. [N.B. The case is presently under appeal.]

5. Victoria Chang v. Industrial Relations Council (27 October 1989), Vancouver A891472 (B.C.S.C.).

The petitioner sought to set aside a decision of the Council which had dismissed her Section 7 complaint against the union. The petitioner alleged the Council had lost jurisdiction when the Commissioner referred the Section 7 matter heard by a three-member panel of the Labour Relations Board to one member of the panel after the Industrial Relations Reform Act was proclaimed on July 27, 1987. The one member (the original Vice-Chairman) rendered the decision alone as the other two members had not been, at that time, re-appointed under the new Act. The Court dismissed the petition with oral reasons.

6. Canadian Paperworkers' Union, Local Union No. 1115 v. Tony McNamara, Pierre Comeau and Industrial Relations Council (18 December 1989), Vancouver A891161 (B.C.S.C.).

The union sought to set aside a decision of the Council which awarded legal costs to two union members incurred by them in proceedings before the Council pursuant to their complaint against the union under Section 5(2)(a). The Court dismissed the petition holding that the Council had jurisdiction under Sections 8(4)(b), 28(1)(b) and 28(1)(d) to award legal costs in circumstances where other effective remedies did not exist.

VII CASELOAD

With the proclamation of the Industrial Relations Reform Act, 1987 on July 27, 1987, the Labour Relations Board was replaced by the Industrial Relations Council. At the same time, the Council assumed responsibility for the provision of mediation services (formerly offered by the Ministry of Labour). In describing the tribunal's caseload during 1989, the Disputes Resolution Division will again be examined separately from the Adjudication Division. The statistical assumptions upon which caseload data are based are described on page 49 as a preface to the Appendix of Statistical Tables.

ADJUDICATION DIVISION

A. 1988-89 Comparisons

In 1989, the Council received a total of 3876 applications and disposed of 3794 applications. As explained in the preface to the Appendix of Statistical Tables, the statistical base for counting strike and lockout observer appointments was changed in 1988. In 1989 the category, previously reported in a footnote, "To file an Order in the Supreme Court", was added to Table 1 and the total applications for 1988 was adjusted accordingly.

Applications Filed

In 1989, applications filed with the Council increased from 1988 in 16 of the 31 categories, illustrated in Table 1:

applications for essential service designations to appoint a strike or lockout vote observer (249%), for religious exemption (154%), regarding an alleged failure to execute or comply with a collective agreement (142%), for a declaratory opinion (excluding declaratory opinions pertaining to Part 5 of the Act) (130%), to file an order in the Supreme Court (99%), classified as miscellaneous (95%), for a successor status declaration (73%), for a common employer declaration (56%), regarding alleged unlawful alteration of employment terms and conditions (56%), to review an arbitration award (42%), for an interpretation of the legislation as it applies to the collective bargaining relationship (37%), for the appointment of an officer to settle a grievance (33%), regarding strike, lockout or picketing activity (31%), alleging unfair labour practices (18%), and for first contract arbitration.

Applications filed with the Council decreased from 1988 in 14 categories illustrated in Table 1:

applications for accreditation to cancel an accreditation, to vary an accreditation, for an "offer last received" vote (50%), to appoint a fact finder, for an interim order (45%), to vary a certification (41%), for an order prohibiting a secondary boycott (38%), to cancel a voluntary recognition collective agreement (36%), for the appointment of an arbitrator (27%), to cancel a certification (19%), regarding freedom of association (17%), for certification (17%), and for reconsideration of a decision (11%).

One category remained unchanged:

applications to alter the terms and/or conditions of employment.

Applications Disposed Of

In 1989, applications disposed of by the Council increased from 1988 in 17 of the 31 categories, illustrated in Table 1:

applications for essential service designations, regarding freedom of association (250%), for the appointment of a strike or lockout vote observer (249%), regarding alleged unlawful alteration of employment terms and conditions (133%), to vary an accreditation (120%), for religious exemption (112%), to file an order in the Supreme Court (109%), for an order prohibiting a secondary boycott (75%), classified as miscellaneous (62%), regarding an alleged failure to execute or comply with a collective agreement (47%), for the appointment of an officer to settle a grievance (41%), regarding strike, lockout or picketing activity (39%), for a declaratory opinion (excluding declaratory opinions pertaining to Part 5 of the Act) (31%), to review an arbitration award (21%), for a successor status declaration (18%), alleging unfair labour practices (7%) and for an interpretation of the legislation as it applies to the collective bargaining relationship (1%).

Applications disposed of by the Council decreased from 1988 in 12 categories shown in Table 1:

applications for accreditation, to cancel an accreditation, for a common employer declaration (50%), to appoint a fact finder, for an interim order (37%), to vary a certification (35%), for the appointment of an arbitrator (31%), for an "offer last received" vote (30%), to cancel a voluntary recognition collective agreement (28%), for reconsideration of a decision (25%), to cancel a certification (20%) and for certification (17%).

Two categories remained unchanged:

applications for first contract arbitration and to alter the terms and/or conditions of employment.

B. CASES DEALT WITH IN 1989

Certification of Bargaining Agents

A significant aspect of the Council's workload involves applications for certifications under Section 39 of the Act, which contemplates three different kinds of applications. Under Section 39(1), a trade union may seek certification for a group of previously unorganized employees, i.e. those not subject to an existing certification or collective agreement. Sections 39(2) and 41(2) provide that a trade union may apply to be certified for a group of employees already represented by another union; these applications are commonly known as "raids". And Section 39(5) makes special provision for a joint application for certification by a number of unions.

The Council received 427 certification applications in 1989, a decrease of 90 from the applications received in 1988. The Council disposed of 424 certification applications in 1989, representing a decrease of 88 from the applications processed in 1988. Of the 424 applications processed in 1989, 69 were withdrawn or not proceeded with, leaving 355 to be formally decided by the Council. Of these, 335 involved previously unorganized employee groups or partially organized employee groups where the union sought to represent an all-employee unit.

Of the 335 applications under Section 39(1), a total of 82 were dismissed. A vote was held on 313 of the 335 applications, and for 62 applications (20%) the result was to leave the employees without any union representation. In another 3 cases, the application was unsuccessful because the employees voted for another applicant union.

The Council disposed of another 20 certification applications in respect of employees in bargaining units totally represented by another union. This number represented about 6% of the total certification decisions in 1989. All of these applications were contested and involved entire bargaining units. The applicant union was successful in obtaining certification in 10 of the 20 cases.

Fifteen applications pursuant to Section 39(5) of the Act (joint applications for certification by a number of trade unions), were filed with the Council in 1989.

As well, five construction project certifications were issued by the Council pursuant to Section 45(1).

In 1989, applications under Section 39(1) involved 9,557 employees, of whom 5,691 obtained union representation. By contrast, inter-union contests under Section 39(2) involved 3,062 employees, with a resulting change in union representation for 674 of these employees. A review of Council files indicates that of the total 20 cases and 3,062 employees, three inter-union contests resulted in more than one application and affected 315 employees (10%).

Inter-union contests between the Hospital Employees' Union and the International Union of Operating Engineers produced two applications involving 109 employees, between the International Union of Operating Engineers and the Service Employees' International Union, two applications involving 23 employees and between the Canadian Brotherhood of Railway, Transport and General Workers and the Independent Canadian Transit Union, two applications involving 183 employees.

In 1989, the number of employees benefiting from certification orders was 6,365, a decrease from the 37,219 employees (including 31,588 teachers) receiving certification in 1988. The number of employees involved in a contested change of union representation decreased from 681 in 1988 to 674 in 1989.

Unfair Labour Practices and Remedies

Sections 2, 3, 4, 5, 5.1, 6, and 7 of the Act contain various provisions relating to unfair labour practices. In 1989, the Council received 331 complaints of violations of these several provisions of the statute, an increase from the 280 received in 1988. The Council disposed of 299 complaints: 151 were settled without adjudication, usually through the assistance of an investigating officer. Of the remaining 148 complaints adjudicated by the Council, 89 were dismissed or not proceeded with and 59 resulted in remedial orders. Hearings were held on 94 applications, and 62 of the 148 decisions were accompanied by published reasons.

Allegations of Employer Violations

A large number of unfair labour practice complaints allege employer activity designed to discourage employees from organizing. Of the 299 unfair labour practice cases disposed of by the Council in 1989, 164 alleged such violations under Sections 2 and 3 of the Act. Of these complaints, 37 alleged dismissals contrary to the Act, while 127 complained of employer tactics short of actual discharge. Of the 127 complaints, 97 involved allegations of improper attempts to induce or compel abstention from union membership and 30 were based on alleged interference with trade union administration.

A significant unfair labour practice complaint concerns discharge for union involvement, alleged in 37 of the 299 complaints. All of these complaints were brought by trade unions. Settlements were reached with the assistance of an officer in 19 cases. Eighteen discharge cases required adjudication.

Fourteen of the 37 dismissal complaints were withdrawn by the unions involved. Of the remaining 23 complaints, including settlements and decisions 13 culminated in some form of relief for at least some of the employees affected.

The Council's power under Section 8(4)(c) to order reinstatement and/or back pay was the basis of nine decisions involving 135 employees. One hundred and thirty-four of these employees were reinstated with back pay. One received a cash settlement.

Ten complaints requested certification under Section 8(4)(e) in conjunction with a complaint under Section 3. None of the requests were granted.

Organizing on Employer Premises

Five complaints were disposed of alleging that trade unions had been organizing on the employers' properties during working hours. One of these complaints was filed by an incumbent union; the other four were filed by employers. One complaint was settled and three were dismissed. In one complaint the Council ruled a violation had occurred.

Coercion and Intimidation

Section 4(3) prohibits any coercive or intimidatory actions by a union in order to influence a person in deciding whether to be or cease being a union member. In 1989, the Council disposed of eight applications alleging violations of this section. Three applications were settled and two were dismissed. In three applications the Council ruled a violation had occurred.

Fair and Reasonable Conditions of Membership

The Council dealt with 11 applications under Section 5 of the Act, 10 filed by employees and one filed by an employer. Two applications were settled and five were dismissed. In four cases, the Council found that a violation had occurred.

Discriminatory Practices Restricted

Section 5.1 is a new statutory provision which restricts a trade union's ability to require an employer to terminate an employee's employment, or otherwise to discriminate against an employee in regard to employment or a condition thereof, due to lack of trade union membership. The Council dealt with two complaints under this section in 1989. Both were dismissed.

Duty to Bargain in Good Faith

There were 30 complaints disposed of alleging a refusal to bargain in good faith as required by Section 6 of the Act. Twenty-three were filed by unions and seven by employers.

Of the 30 charges of failure to bargain in good faith, 20 were voluntarily resolved. Five of these complaints were dismissed. In five cases, a violation was deemed to have occurred.

Duty of Fair Representation

In 1989, the Council disposed of 79 complaints by individual employees alleging a violation by their bargaining agent of the duty of fair representation described in Section 7. Thirty-three of these complaints were voluntarily resolved through the efforts of an officer. Forty-three complaints were either not proceeded with or dismissed. In two cases, violations were found and the unions ordered to take the grievance to arbitration. In one case, a violation was found and the union was ordered to compensate the complainant for lost wages.

Religious Exemptions

In 1989, the Council received 66 applications seeking exemption for employees from the union security and dues provisions of collective agreements because of individual religious convictions or beliefs. Fifty-three such applications were disposed of by the Council. Nineteen of the applications were granted, six were dismissed, 24 were not proceeded with and four were withdrawn.

Votes

Representation Votes

The Council may direct that representation votes be held in a variety of circumstances under the Act. A total of 436 representation votes were directed by the Council in the applications disposed of in 1989. In all applications for certification except "alternate construction certifications" under Section 45, a representation vote is required. A representation vote will be held pursuant to Section 52(2) of the Act where the Council receives a decertification application signed by at least 45% of the employees in the bargaining unit. Under Section 53(2), the Council may order a representation vote to determine which trade union will be the bargaining agent for a unit created as a result of a successorship. The Council may order that a representation vote be conducted before declaring that one trade union has acquired the rights of another trade union due to a merger, amalgamation, or transfer of jurisdiction (See Section 54(2)). Section 40 of the Act requires the Council to conduct a representation vote before issuing a multi-employer certification. Representation votes are used to determine consent to trade union representation by dependent contractors (Section 48(1)) and by professional employees (Section 152(2)). Finally, representation votes are used to determine whether a proposed council of trade unions is representative of the employees in the proposed bargaining unit (Section 57).

A total of 326 votes were held in 330 applications for certification, 309 votes involved applications for certification under Section 39(1) of the Act. Four votes involved two certification applications for the same unit and 17 votes were the result of raids. A total of 7,770 voters were eligible to participate in the 309 votes under Section 39(1); the union was successful in 248 out of 313 applications or 79% of the cases. A total of 2,784 voters were eligible to participate in the 17 votes; the applicant union was successful in 10 or 59% of the cases.

Twenty-nine applications to vary a certification required a vote. Twenty-eight of these sought to expand a presently certified bargaining unit, and the union was successful in 25 of these applications. In one case an application to delete a portion of a bargaining unit was successful following a vote of the employees involved.

Eighty votes involved decertification applications made under Section 52(2) of the Act. In 70 cases, the union was decertified. The total number of employees eligible to vote for or against decertification was 1,235.

One vote was held as a result of a ruling under Section 34 of the Act.

"Offer Last Received" Votes

Section 137.7 is a new statutory provision introduced on July 27, 1987. Section 137.7(4) provides that before the commencement of a strike or lockout, the employer may request the commissioner to direct a vote of the employees in the affected bargaining unit regarding acceptance or rejection of the employer's offer last received by the trade union. Under Section 137.7(5), a trade union may request the commissioner to direct that a vote be taken of

employers in an employers' organization as to the acceptance or rejection of the trade union's offer last received by the employers' organization. Moreover, during a strike or lockout the commissioner may, on his own motion pursuant to Section 137.7(9) or (10), direct that a "final offer vote" be held if he considers it in the public interest to do so. Section 137.7(6) provides that where a vote favours the acceptance of a "final offer", an agreement is thereby constituted between the parties.

In 1989, 17 applications under Section 137.7(4) were filed and 21 such applications were disposed of. Fifteen of these applications were granted and six were withdrawn. In seven cases, the vote favoured acceptance of the employer's offer and an agreement was constituted between the parties. In three cases the parties reached an agreement prior to the vote being held. In the remaining five cases, the employees voted to reject the offer. No applications were filed under Section 137.7(5), nor did the commissioner direct any votes pursuant to Section 137.7(9) or (10) of the Act.

First Contract Arbitration

After a trade union has been certified as bargaining agent for a group of employees, it will commence bargaining with the employer to conclude a first collective agreement. If the parties are unable to reach their first collective agreement, Section 137.5 of the Act provides that upon the request of a party, the commissioner may constitute a panel of the Council to inquire into the dispute and if he considers it advisable, to settle the terms and conditions of the agreement. Section 137.5 was introduced on July 27, 1987, and replaces Section 70 which provided that such a dispute would be referred to the tribunal by the Minister of Labour.

One application by a party for first contract arbitration was received by the Council in 1989.

Failure to Execute or Comply with a Collective Agreement

In 1989, the Council received 29 applications alleging violation of Section 65(1) or (2) of the Act. It disposed of 22 such applications, 13 of which were settled and seven dismissed. In two cases, violations were found.

Delay or Unrest in Settling a Difference

In 1989, the Council received one application under Section 97 alleging undue delay in resolving a difference arising during the term of a collective agreement. This application was settled by the parties.

Alteration of Employment Terms and Conditions

Section 51 of the Act requires the Council's consent to changes in working conditions while a certification application is pending. Section 61 imposes the same requirement for four months following certification or until a collective agreement is executed, whichever occurs first. In 1989 the Council received and disposed of three applications seeking permission to alter terms and conditions of employment. Two applications were granted and one was withdrawn.

In 1989, the Council received 28 applications alleging violation of Section 51 or 61 of the Act and disposed of 28 such applications. Twenty of the applications were settled, one was dismissed, in four cases consent orders were issued, and in three cases violations were found.

Questions Arising Under the Act

Section 34 of the Act describes the Council's exclusive jurisdiction to decide any question arising under the Act, including whether certain individuals are "employees" and thus appropriately

included in a bargaining unit. In 1989, 92 such applications were filed with the Council. A total of 74 applications were disposed of by the Council, 49 of same involving the question as to whether individuals were "employees" under the Act and/or included in a specific bargaining unit. For 29 applications a ruling was made, nine were not proceeded with and 36 were withdrawn.

Declaratory Opinion

The Council received 23 applications in 1989 requesting that it render a declaratory opinion (other than applications pertaining to Part 5 of the Act). The Council disposed of 17 applications. In five cases, an opinion was issued. Four applications were dismissed and eight applications were withdrawn.

Variance of Certification

In 1989, the Council received a total of 372 applications for certification variance, a decrease of 41% from 1988. As in previous years, most of the applications involved a simple change in the name or address of the employer or the trade union. The Council disposed of 369 applications for certification variance, granting 331 of the applications. Forty-six of the applications to vary a certification sought to expand a bargaining unit. Twenty-six of these were granted, adding 2,071 employees and 128 dependent contractors to existing certifications. Votes were conducted to decide 25 of the 26 applications.

Declaration of Successor Employer

Section 53 provides for the automatic transfer of union certification and the collective agreement when a business is disposed of, for example, by sale or lease. In 1989, the Council received 95 applications for a declaration of successor employer status. The Council disposed of 95 such applications in 1989, granting 77, while 9 were withdrawn and 9 were either not proceeded with or dismissed.

Declaration of Successor Trade Union

In 1989 the Council received 154 applications for declaration under Section 54 of the Act, on the bargaining rights of successor trade unions resulting from a union merger, amalgamation, or a transfer of jurisdiction. The Council disposed of 90 such applications, granting 86. Three were not proceeded with or dismissed, and one was withdrawn.

Declaration of Common Employer

In 1989, the Council received 25 applications for declarations under Section 37 of the Act to treat two or more businesses as constituting one employer. A total of 14 applications under Section 37 were disposed of, four of them involving enterprises in the construction industry. Nine applications were settled or withdrawn. Of the remaining five, the Council granted three declarations with respect to at least some of the businesses named in the application. The balance were dismissed.

Essential Services Designation

The Council received 82 applications requesting essential service designations in 1989, and disposed of 80 such applications. Seventy-nine orders were issued and one application was dismissed.

Resolving Grievances under a Collective Agreement

Section 96 of the Act provides the Council with a comprehensive original jurisdiction to resolve grievances arising under the provisions of a collective agreement. In 1989, the Council received 109 applications under Section 96 requesting the assistance of an officer to settle a difference arising during the term of a collective agreement. A total of 106 applications under Section 96 were disposed of by the Council, with 68 voluntarily settled, virtually all through the efforts of an officer. This represents a settlement rate of 64%, a major benefit to the labour relations community, given that the parties voluntarily resolved their differences and a potentially serious overloading of the arbitration procedure is thereby avoided. If the officer appointed by the Council does not achieve a resolution of the arbitrable difference, the Council may either refer the matter back to the parties, or inquire into the difference itself and make an order to finally resolve it. Of the 106 applications disposed of in 1989 under Section 96, 38 were not settled through officer mediation. Seven of these applications were not proceeded with, four were determined to be non-arbitrable and 21 were referred back to the parties. The remaining six were adjudicated by the Council, all of which turned on issues which could be disposed of on the basis of the officer's report and written submissions from the parties.

Review of Arbitration Awards

Section 108 of the Act gives the Council authority to review arbitration awards delivered under collective agreements. In 1989, the Council received 44 applications, and disposed of 41 under Section 108. Of the latter, 26 were brought by employers, ten by unions, one by an employer association and four by grievors. Four dealt with arbitration awards regarding discharge grievances.

Section 108 affords only a limited review of an arbitration award rather than an extensive scope of appeal. This policy of limited interference in grievance arbitration is reflected in the fact that of the 41 applications disposed of during the year, in only nine cases were the arbitrators' decisions set aside. In three cases, the awards were referred back to the arbitrators. In five cases, the Council substituted other awards. In one case, the parties resolved the issue by negotiation. Three applications under Section 108 were withdrawn and 29 were dismissed. Of the 38 applications adjudicated by the Council, two were dealt with in a formal hearing and 30 were disposed of with reasons for decision issued to the labour relations community at large.

Accredited Employers' Organizations

No applications were received in 1989 for accreditation of an employer organization as a bargaining agent of employers.

There were 11 applications made to vary an accreditation and 97 applications disposed of: 94 were granted, one was dismissed, one was not proceeded with and one was withdrawn. (See Table 1 and footnotes thereto in the Statistical Appendix).

The Council received no applications in 1989 to cancel an accreditation.

Strikes, Lockouts and Picketing

A total of 250 applications relating to strikes, lockouts and picketing were received by the Council in 1989. The Council disposed of 255 cases: 158 applications alleged illegal strike activity, three alleged illegal lockouts and 94 concerned picketing activity. Of the 255 applications disposed of, 93 were settled without formal adjudication. These included 55 of the 158 strike applications, two of the three lockout applications and 36 of the 94 picketing applications.

Of the 162 applications which required formal adjudication, 133 resulted in orders or opinions and 29 were dismissed. One hundred and three of the applications requiring adjudication involved some sort of strike activity, one involved an alleged lockout and 58 involved picketing activity.

Strikes and Lockouts

A fundamental principle of the Act is that the legality of a strike or lockout depends upon its timing. Section 93 requires that all disputes arising under a collective agreement are to be resolved, without work stoppage, by arbitration or another method agreed to by the parties. Sections 79 and 79.1 also contemplate that strikes and lockouts are prohibited during the term or operation of a collective agreement. Moreover, Sections 80 through 83 of the Act stipulate certain preconditions to the legality of a strike or lockout.

In 1989, the Council disposed of 158 applications alleging illegal strike activity. Of the 103 applications which required adjudication, 35 alleged threatened or actual illegal job action while a collective agreement was in effect. For 24 of the 35 applications, the Council ruled that a violation of the Act had occurred or would occur, while two applications were resolved with a Consent Order. Another 64 of the adjudicated strike applications alleged a violation of statutory preconditions to legal job action: a violation was found to have occurred in 61 cases, while two applications were resolved with a consent order. Finally, in four of the 103 applications requiring adjudication, relief was requested under Section 90. In two of the four applications, relief was granted.

The Council adjudicated one application during 1989 alleging an illegal lockout. It was dismissed.

Picketing

Sections 85 through 88 of the Act delineate the scope of legal picketing activities by trade unions. In the 1989 report year, 94 applications relating to picketing were disposed of by the Council, 75 filed by employers and 19 by unions. See Table 7 in the Statistical Appendix for an illustration of the nature and disposition of these applications.

Termination of Bargaining Rights

Section 52 of the Act deals with the cancellation of trade union certifications. The Council disposed of 228 such applications in 1989. Of the latter, 122 were filed by groups of employees, 67 were filed by employers, and 39 were filed by trade unions. The Council granted 168 of these applications, 56 were rejected or not proceeded with and four were withdrawn. See Table 3 in the Statistical Appendix.

Termination of Collective Agreements

Section 66(1.1) provides that a collective agreement is deemed to be terminated where an employer has not employed a person as an employee in a unit for a period of two years. In 1989, 37 applications regarding the termination of voluntary recognition collective agreements were filed by employers. The Council disposed of 41 such applications, granting 24. Of the remainder, 16 were dismissed or not proceeded with and one was withdrawn.

Reconsiderations

In 1989, the Council received 130 applications under Section 36 of the Act, requesting reconsideration of Council decisions. Of the 138 applications disposed of during 1989, eight were withdrawn, 106 were dismissed and 24 resulted in a change in the original decision. For

an illustration of the "success" rate of reconsideration applications, see Table 6 in the Statistical Appendix.

Trusteeship Over Local Unions

Under Section 11.1 of the Industrial Relations Act, when supervision or control over a subordinate trade union is assumed by a provincial, national or international trade union, the latter is required to file with the Council a statement setting out the terms under which the supervision or control is to be exercised, within 60 days of assuming such supervision or control. The supervision or control shall continue for not more than 12 months unless an application is received to extend the supervision or control for a further period, not exceeding 12 months. In 1989, one application regarding trusteeship was received by the Council.

DISPUTES RESOLUTION DIVISION

Section 137.2 of Part 8.1 of the Act specifies the duties of the Disputes Resolution Division:

(a) to monitor collective bargaining between employers and bargaining agents;

(b) to provide assistance to employers and bargaining agents to facilitate the making or renewing of collective agreements;

(c) to gather and publish information and statistics respecting labour relations, employment and collective bargaining in the Province;

(d) to administer mediation services provided under this Part, and

(e) to carry out the functions imposed on it by this Part and other functions the Council considers necessary to effect the purposes of this Part.

The chairman of the Disputes Resolution Division carries the responsibilities of the Division, assisted by a vice chairman and five mediation officers. As of December 31, 1989, Don Cott, Larry Gregg, Jim Toogood, Lynn Turner and Malcolm Wilkinson served as mediation officers. In addition, Jim Toogood also acts as the Director of Preventive Mediation, and Larry Gregg as the Director of Statistics responsible for overseeing the collective bargaining data base and any related publications issued by the Council. When the Minister directs the Council to designate essential services (see Section 137.8 of the Act), the commissioner may refer the matter to this Division. The provision of mediation services is described in Sections 137.3 and 137.7 of the Act. Mediation officers are also available on an informal basis. The clients are trade unions, employers, and employers' organizations located throughout British Columbia. The Division maintains contact with a variety of conciliation and mediation services in Canada and the United States to exchange information on administration, legislation, trends and problems of mutual concern. The Division also makes available speakers, panelists and moderators to educational institutions as well as trade union and employer organizations.

For an analysis of mediation officer appointments and outcome of appointments in 1989, refer to Tables 9 and 10 in the Statistical Appendix.

The Division administers the Preventive Mediation Program. This program utilizes the services and expertise of mediation officers to assist labour and management in identifying and resolving existing or potential problems which affect the collective bargaining relationship. It is founded on the premise that effective labour/management relations benefit the public as well as the parties. The five elements of the program are:

- *relationship by objectives*
- *joint training*
- *grievance mediation*
- *labour-management committees*
- *first agreement orientation*

Relationship by objectives is an in-depth, conflict resolution process that brings the parties together to analyze problems of mutual concern, to establish common objectives, and to decide on ways and means to implement those objectives. Joint training is a joint union-management training course for shop stewards and management supervisors. The training is intended to enhance the ability of supervisors and stewards to jointly deal with minor problems before they become major issues; to encourage supervisors and stewards to recognize and respect each other's roles, responsibilities and rights; to emphasize problem-solving and the mutuality of interests. ***Grievance mediation*** is a quick, inexpensive and voluntary way to resolve grievances. Representatives of labour and management meet with a mediation officer to attempt resolution of a grievance prior to arbitration. It is an informal process that has proven useful not only in resolving grievances but in identifying and resolving situations that produce grievances. In 1987, mediation officers in this program participated in 100 grievance mediations, only one of which was not resolved in the process. ***Labour-management committees*** provide an effective forum for emphasizing two-way communication on problems that affect relations between labour and management. These committees may focus on issues that would normally arise in piecemeal fashion or which would otherwise need to be addressed through more formal mechanisms. Concerns such as working conditions, operational problems, job assignments, work scheduling and economic conditions affecting the enterprise can be effectively dealt with by labour-management committees. The Division provides assistance on how to establish and maintain such committees, including monitoring or chairing new committees. ***First agreement orientation*** is a Division service that provides information to employers and trade unions who are negotiating or are about to negotiate a collective agreement for the first time. The objective is to remove the mystique surrounding collective bargaining by providing practical information on the legislative guidelines and thereby enabling negotiations to proceed more smoothly. It is not intended to teach labour relations techniques.

The Preventive Mediation Program continued to grow in 1989. As in the year previous, the Council's mediation staff continued its involvement in Ontario under the auspices of the Ontario Ministry of Labour; in addition to observing the process some mediators also assisted in the presentation of courses with the Ontario staff.

The Division responded to numerous applications for participation in the Preventive Mediation Program. These applications included requests for First Agreement Orientation kits and follow up information. The mediators were actively involved in Grievance Mediation and achieved a high rate of success in settling grievances. A Joint Training course was conducted in Richmond for a large employer and its unionized staff. The year concluded with the division active with one employer and its staff in setting up and educating Labour/Management committees to deal with problems in the workplace.

COLLECTIVE BARGAINING INFORMATION SYSTEM

During 1989 the Division continued the work begun in 1988 on the development and implementation of a computer driven database containing compensation information on all active collective agreements within the Province.

The process used in developing this system has two components. The first centres on the collection of the compensation details of the collective agreements. In 1988 the Division, in consultation with the labour relations community, developed the "Collective Bargaining Statistical Report" which is sent to employers on the expiration of their current collective agreement requesting information on the wage and benefit structure of the settlement. By the year end over 1200 forms have been sent to employers for completion and the Division has received approximately 850 completed forms in response.

The second process deals with the development of costing models and the computer software needed to store and retrieve the information contained in the database. The tendering process began in April and the detailed design study was completed in June. Subsequently a contract was let to a software development firm who, working with members of the Division and the Council's Information Systems, completed the writing and testing of the software in December. The data is currently being entered into the system and the database should be complete and available for use in early 1990.

The information will be made available to the public through the publication of a monthly newsletter (by subscription). It is also hoped that there will be on-line access to the information for those interested. Negotiations are ongoing to have this information available through a computer network which is accessible from most makes of computer systems. In addition, interested parties may make specific requests for information beyond that contained in the newsletter. The information in the database will be detailed to a degree exceeding that contained on other similar systems in the province. The system will allow the Council to serve the public in a more timely and efficient manner.

VIII APPENDIX OF STATISTICAL TABLES

The following tables provide an analysis of the applications filed and disposed of in 1988 and 1989.

The Council has implemented a computerized Case Management System. The statistical base for the category relating to the appointment of strike and lockout observers had to be changed in 1988 to be compatible with the new system. The 1988 and 1989 Tables show the number of **applications** for appointments received and disposed of by the Council. As well, for 1988 and 1989, the number of appointments made in respect of those applications is shown in a footnote. In 1987 and all years previous, the number of **appointments** rather than the number of applications were reported.

A new category, "To file an Order in the Supreme Court", has been added to the Tables. Such applications were reported in 1988 in a footnote to Table 1. Totals for 1988 have been adjusted to reflect the addition of this new category.

As in previous years, an application involving a dispute is classified as withdrawn if the request for withdrawal comes prior to the involvement of an officer or a panel. An application withdrawn following such involvement is classified as settled.

It is important to note when using these statistics as a guide that the work content embodied in individual applications varies widely, both among different categories of applications and among applications in the same category. The work content of the administrative, investigative and decision-making functions can vary widely as well, from category to category and from application to application.

TABLE 1

APPLICATIONS AND COMPLAINTS FILED AND DISPOSED OF 1988 - 1989

The category "Dismissed" includes decisions where no violation is deemed to have occurred, where the application does not conform to statutory or regulatory time limits or where it is determined no further action is warranted.

For further elaboration of the figures in the table, refer to Chapter VI and the previous page.

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1988	1989	1988	1989
Certification Applications				
Granted			345*3	263*4
Dismissed			80	92
Not Proceeded With			3	0
Withdrawn			84	69
Sub-Total	517*1	427*2	512	424
Certification Variances				
Granted			526	331
Dismissed			16	10
Not Proceeded With			5	1
Withdrawn			19	27
Sub-Total	634	372	566	369
Certification Cancellations				
Granted			187	168
Dismissed			30	23
Not Proceeded With			57	33
Withdrawn			12	4
Sub-Total	276	223	286	228

cont.

*1 47,130 employees were included in the 517 certification applications filed in 1988. 75 certification applications were for units composed of 31,558 teachers.

*2 11,093 employees were included in the 427 certification applications filed in 1989.

*3 37,219 employees were included in the 345 certifications granted in 1988. 75 certification applications were for units composed of 31,558 teachers.

*4 6,365 employees were included in the 263 certifications granted in 1989.

The estimate of employees per application is derived from the estimate on the union applications. Variances do occur between the time of application and the time of disposal of the application. In the case of applications filed, the estimate could include some multiple counting where more than one union applied to cover the same group of employees.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1988 - 1989

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1988	1989	1988	1989
Accreditation Applications				
Granted			2	0
Dismissed			0	0
Not Proceeded With			0	0
Withdrawn			0	0
Sub-Total	1	0	2	0
Accreditation Variances				
Granted			17	94
Dismissed			1	1
Not Proceeded With			0	1
Withdrawn			26	1
Sub-Total	105*1	11*2	44*3	97*4
Accreditation Cancellations				
Granted			3	0
Dismissed			0	0
Not Proceeded With			0	0
Withdrawn			0	0
Sub-Total	1	0	3	0
Declaration of Successor Status				
Granted			125	163
Dismissed			9	10
Not Proceeded With			3	2
Withdrawn			20	10
Sub-Total	144	249	157	185

cont.

*1 To add 20 employers, to delete 13 employers and to vary the names and/or addresses of 87 employers and three associations.

*2 To add four employers, to delete four employers and to vary the names and/or addresses of two employers and two associations.

*3 21 employers were added to accreditations, seven were deleted and the names and/or addresses of two employers and two associations were varied. A request to delete one employer was denied. Requests to add one employer and to delete 26 employers were withdrawn.

*4 Six employers were added to accreditations, five were deleted and the names and/or addresses of 83 employers and two associations were varied.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1988 - 1989

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1988	1989	1988	1989
Appointment of an Officer to Resolve a Dispute Where a Collective Agreement is in Effect				
Settled			45	68
Arbitrated			8	6
Referred Back to Parties			14	21
Not Arbitrable			5	4
Not Proceeded With			1	7
Withdrawn			2	0
Sub-Total	82	109	75	106
Complaints of Unfair Labour Practices				
Settled			135	151
Granted			36	59
Dismissed			94	78
Not Proceeded With			14	11
Sub-Total	280	331	279	299
To Alter Conditions of Employment				
Granted			1	2
Dismissed			0	0
Not Proceeded With			0	0
Withdrawn			2	1
Sub-Total	3	3	3	3
For an Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship				
Ruling Made			21	29
Not Proceeded With			4	9
Withdrawn			48	36
Sub-Total	67	92	73	74

cont.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1988 - 1989

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1988	1989	1988	1989
To Cancel a Voluntary Recognition Collective Agreement				
Granted			32	24
Dismissed			6	4
Not Proceeded With			13	12
Withdrawn			6	1
Sub-Total	58	37	57	41
For an Inquiry to Settle the Terms and Conditions of a First Collective Agreement				
Settled			0	0
Contract Imposed			0	0
Dismissed			0	0
Withdrawn			0	0
Sub-Total	0	1	0	0
For an Order or Opinion Pertaining to Applications Pursuant to Part 5 of the Industrial Relations Act (Strikes, Lockouts, Picketing, etc.)				
Settled			64	93
Granted			105	133
Dismissed			14	29
Sub-Total	191	250	183	255
To Treat Several Entities as One Employer				
Granted			4	3
Dismissed			5	2
Not Proceeded With			0	0
Withdrawn			19	9
Sub-Total	16	25	28	14

cont.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1988 - 1989

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1988	1989	1988	1989
For Review of an Arbitration Award				
Granted			6	9
Dismissed			23	29
Not Proceeded With			0	1
Withdrawn			5	2
Sub-Total	31	44	34	41
For the Appointment(s) of Observer(s) of a Strike or Lockout Poll				
Appointment(s) Made			131*1	464*2
Withdrawn			3	4
Sub-Total	134	468	134	468
For the Appointment of an Arbitrator				
Request Acknowledged			807	554
Sub-Total	807	587	807	554
For an Interim Order				
Granted			2	0
Dismissed			2	8
Withdrawn or Not Proceeded With			56	30
Sub-Total	64	35	60	38
For an "Offer Last Received" Vote				
Granted			27*3	15*4
Dismissed			0	0
Withdrawn			3	6
Sub-Total	34	17	30	21

cont.

*1 167 observers were appointed for the 131 applications. Due to the conversion to a computer based case management system, it was necessary to change the statistical base for strike or lockout observer appointments in 1988. See the preface to the Statistical appendix for an explanation of the change.

*2 790 observers were appointed for the 464 applications.

*3 In 20 cases, the employees voted to reject the offer. In five cases, they accepted the offer. In two cases, the parties reached a settlement before the vote was held.

*4 In five cases, the employees voted to reject the offer. In seven cases, they accepted the offer. In three cases, the parties reached a settlement before the vote was held.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1988 - 1989

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1988	1989	1988	1989
For Religious Exemption				
Granted			8	19
Dismissed			4	6
Not Proceeded With			11	24
Withdrawn			2	4
Sub-Total	26	66	25	53
For an Order Regarding an Alleged Failure to Execute or Comply with a Collective Agreement				
Settled			8	13
Granted			2	2
Dismissed			5	7
Sub-Total	12	29	15	22
For an Order Regarding Alleged Unlawful Alteration of Employment Terms and Conditions				
Settled			7	20
Granted			1	7
Dismissed			4	1
Sub-Total	18	28	12	28
For Essential Service Designations				
Settled			0	0
Granted			2	79
Dismissed			0	1
Sub-Total	2	82	2	80
For a Declaratory Opinion (Excluding Declaratory Opinions Pertaining to Part 5 of the Industrial Relations Act)				
Granted			7	5
Dismissed			6	4
Withdrawn			0	8
Sub-Total	10	23	13	17

cont.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1988 - 1989

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1988	1989	1988	1989
For an Order Prohibiting a Secondary Boycott				
Settled			4	1
Granted			0	0
Dismissed			0	6
Sub-Total	8	5	4	7
For an Order Regarding Freedom of Association				
Settled			2	1
Granted			0	1
Dismissed			0	5
Sub-Total	6	5	2	7
To Appoint a Fact Finder				
Granted			1	1
Dismissed			1	0
Withdrawn			0	0
Sub-Total	2	1	2	1
Miscellaneous				
Settled			6	4
Granted			2	13
Dismissed			7	14
Not Proceeded With			0	0
Withdrawn			6	3
Sub-Total	20	39	21	34

cont.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1988 - 1989

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1988	1989	1988	1989
For Reconsideration of a Decision				
Granted			31	24
Dismissed			127	106
Withdrawn			27	8
Sub-Total	146	130	185	138
To file an order in the Supreme Court				
Granted			70	171
Dismissed			3	1
Withdrawn or Not Proceeded With			18	18
Sub-Total	94	187	91	190
TOTAL	3789*	3876*	3705*	3794*

* Due to the conversion to a computer based case management system, it was necessary to change the statistical base for strike and lockout observer appointment applications in 1988. Also, applications for Interim Orders were added to the 1988 statistics. See the preface to the Statistical Appendix for an explanation of the change.

Applications to file orders in the Supreme Court have been included in Table 1 for the 1989 Annual Report. Total applications for 1988 have been adjusted accordingly.

TABLE 2

CERTIFICATION APPLICATIONS DECIDED IN 1989

APPLICATIONS	GRANTED	DISMISSED	TOTAL
All unorganized employees plus some organized employees where the applicant sought to represent an all-employee unit (S. 39(1) & S. 45 of the Act)	253	82	335
Organized employees excluding those described above (S. 39(2) of the Act)	10	10	20
TOTAL	263	92	355

NUMBER OF EMPLOYEES	GRANTED	DISMISSED	TOTAL
All unorganized employees plus some organized employees where the applicant sought to represent an all-employee unit (S. 39(1) & S. 45 of the Act)	5691	3866	9557
Organized employees excluding those described above (S. 39(2) of the Act)	674	2388	3062
TOTAL	6365	6254	12619

TABLE 3

APPLICATIONS TO CANCEL CERTIFICATIONS DISPOSED OF IN 1988-1989

	NUMBER OF APPLICATIONS	
	1988	1989
Filed by the Employee(s)		
Granted	77	70
Dismissed	20	21
Not Proceeded With	29	28
Withdrawn	6	3
TOTAL	132	122
Filed by the Employer		
Granted	104	60
Dismissed	10	1
Not Proceeded With	28	5
Withdrawn	6	1
TOTAL	148	67
Filed by the Union		
Granted	6	38
Dismissed	0	1
Withdrawn	0	0
TOTAL	6	39
Summary		
Granted	187	168
Dismissed	30	23
Not Proceeded With	57	33
Withdrawn	12	4
TOTAL	286	228

TABLE 4

CERTIFICATION APPLICATIONS RESULTING IN A VOTE IN 1989

A.	Number of applications resulting in a vote for or against one union or between two unions applying for the same unit		313 out of 335* or 93%
	Number of successful applications		248
	Number of unsuccessful applications		65
	Percentage of successful applications		79%
	Total number of eligible voters involved in the 313 applications **	7770	
B.	Number of applications resulting in a choice between an applicant and an incumbent union		17 out of 20 or 85%
	Number of successful applications		10
	Number of unsuccessful applications		7
	Percentage of successful applications		59%
	Total number of eligible voters involved in the 17 applications **	2784	

* Includes six applications under S. 45 of the Act which do not require a vote.

** This figure can vary from the number of employees originally applied for. In some cases, two or more applications resulted in one vote and thus one group of eligible voters.

TABLE 5

APPEALS DISPOSED OF IN 1989

Type of Application Being Reconsidered	Dismissed	Granted	Withdrawn	Total
Certification	16	4	2	22
Appeal of a certification decision	1	0	0	1
Variance of certification	6	2	0	8
Cancellation of a certification	3	2	0	5
Appeal of a cancellation of a certification	1	0	0	1
Declaration of successor status	3	1	0	4
Appeal of a declaration of successor status	1	0	0	1
The disposition of a grievance under an existing collective agreement	1	3	2	6
Unfair labour practice adjudication	23	2	0	25
Appeal of an unfair labour practice adjudication	3	1	0	4
Appeal of an appeal of an unfair labour practice adjudication	0	1	0	1
A ruling re: an interpretation of the legislation as it applies to the collective bargaining relationship	8	1	0	9
A ruling re: cancelling a voluntary collective bargaining relationship	5	0	1	6
Appeal of a ruling re: cancelling a voluntary collective bargaining relationship	1	0	0	1

cont.

TABLE 5 (cont.)

APPEALS DISPOSED OF IN 1989

Type of Application Being Reconsidered	Dismissed	Granted	Withdrawn	Total
A ruling pertaining to alleged illegal strikes, lockouts, picketing, etc.	4	0	0	4
A review of an arbitration award	4	3	0	7
A ruling re: collective agreement compliance	0	0	1	1
A ruling re: a last offer vote	2	0	1	3
A ruling re: religious exemption	1	2	0	3
Appeal of a ruling re: religious exemption	3	0	0	3
A declaratory opinion	1	1	0	2
A ruling re: secondary boycott and freedom of association	1	0	0	1
A ruling re: the alteration of terms and conditions of employment	1	0	0	1
A ruling re: a strike vote	2	0	0	2
A jurisdictional decision	1	0	0	1
A ruling re: procedure	14	1	1	16
TOTAL	106	24	8	138

Appellant(s)	Dismissed	Granted	Withdrawn	Total
Employer(s)	33	7	5	45
Union(s)	48	13	3	64
Employee(s)	22	2	0	24
Other	3	2	0	5
TOTAL	106	24	8	138

TABLE 6

"SUCCESS" RATE OF APPEALS

	1989	1985	1986	1987	1988
Total Applications Disposed of	154	174	204	185	138
Number of These Withdrawn	29	25	53	27	8
Number of Applications Processed to a Final Decision	125	149	151	158	130
Number of Applications Resulting in a Revision of the Original Decision	20	25	26	31	24
"Success" Rate of Appeals	16%	17%	17%	20%	18%

TABLE 7

APPLICATIONS PURSUANT TO PART 5 OF THE INDUSTRIAL RELATIONS ACT (STRIKES, LOCKOUTS, PICKETING, ETC.) DISPOSED OF IN 1989

TYPE OF APPLICATION	NUMBER OF APPLICATIONS	AT A FORMAL HEARING	IN A FORMAL DECISION *
A. Dispute settled			
1. re alleged illegal lockout	2	0	0
2. re alleged illegal strike or a challenged strike vote	47	16	0
3. re picketing (employer complaint)	28	4	0
4. re picketing (trade union application for a declaratory opinion)	8	5	0
5. re activity affecting business, etc. (S.90)	8	2	0
Sub-Total	93	27	0
B. Dispute disposed of by an adjudication that.			
(a) a violation had occurred or would occur or that a specific activity should be restricted, or			
(b) that certain proposed picketing be allowed			
1. re alleged illegal strike or a challenged strike vote	89	87	5
2. re picketing (employer complaint)	36	36	3
3. re picketing (trade union application for a declaratory opinion)	6	6	3
4. re activity affecting business, etc. (S.90)	2	2	1
Sub-Total	133	131	12

cont.

TABLE 7 (cont.)

APPLICATIONS PURSUANT TO PART 5
OF THE INDUSTRIAL RELATIONS ACT
(STRIKES, LOCKOUTS, PICKETING, ETC.)
DISPOSED OF IN 1989

TYPE OF APPLICATION		NUMBER OF APPLICATIONS	AT A FORMAL HEARING	IN A FORMAL DECISION *
C.	Dispute disposed of:			
(a)	by an adjudication that no violation had occurred or would occur or that a specific activity should not be restricted, or			
(b)	by a refusal to rule on the proceedings			
1.	re alleged illegal lockout	1	1	1
2.	re alleged illegal strike a challenged strike vote	10	9	2
3.	re picketing (employer complaint)	11	10	7
4.	re picketing (trade union application for a declaratory opinion)	5	5	4
5.	re activity affecting business, etc. (S.90)	2	2	1
	Sub-Total	29	27	15
	TOTAL	255	185	27

* In 1983, the Labour Relations Board changed its procedures regarding published decisions. Letter decisions and formal decisions were consolidated into one series. Statistics from 1983 on reflect this consolidated series and cannot be compared with previous years where only formal decisions were considered.

Note:
The applications in Table 7 include those filed to avert threatened strikes, lockouts and/or picketing (through a declaratory opinion, a jurisdictional decision, etc.) as well as those protesting some form of actual job action.

TABLE 8

1989 APPLICATIONS AND COMPLAINTS ANALYZED BY APPLICANT

	Filed by Employer(s)	Filed by Union(s)	Filed by Employee(s)	Other	Total
Certification Applications	0	427	0	0	427
Certification Variances	46	324	1	1	372
Certification Cancellations	61	40	122	0	223
Accreditation Applications	0	0	0	0	0
Accreditation Variances	11	0	0	0	11
Accreditation Cancellations	0	0	0	0	0
Declaration of Successor Status	34	211	2	2	249
Appointment of an Officer to Resolve a Dispute Where a Collective Agreement is in Effect	7	102	0	0	109
Complaints of Unfair Labour Practices	14	204	106	7	331
To Alter Conditions of Employment	3	0	0	0	3
For an Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship	53	29	9	1	92
To Cancel a Voluntary Recognition Collective Agreement	37	0	0	0	37
For an Inquiry to Settle the Terms and Conditions of a First Collective Agreement	1	0	0	0	1
For an Order or Opinion Pertaining to Applications Pursuant to Part 5 of the Industrial Relations Act (Strikes, Lockouts, Picketing, etc.)	223	26	0	1	250
To Treat Several Entities as One Employer	2	22	0	1	25
For Review of an Arbitration Award	26	11	7	0	44

cont.

TABLE 8 (cont.)

1989 APPLICATIONS AND COMPLAINTS ANALYZED BY APPLICANT

	Filed by Employer(s)	Filed by Union(s)	Filed by Employee(s)	Other	Total
For the Appointment(s) of an Observer(s) of a Strike or Lockout Poll	10	458	0	0	468
For the Appointment of an Arbitrator	0	587	0	0	587
For an Interim Order	25	6	4	0	35
For a Last Offer Vote	17	0	0	0	17
For Religious Exemption	0	0	66	0	66
For an Order Regarding an Alleged Failure to Execute or Comply with a Collective Agreement	8	21	0	0	29
For an Order Regarding Alleged Unlawful Alteration of Employment Terms and Conditions	0	28	0	0	28
For Essential Service Designations	3	0	0	79	82
For a Declaratory Opinion (Excluding Declaratory Opinions Pertaining to Part 5 of the Industrial Relations Act)	12	7	4	0	23
For an Order Prohibiting a Secondary Boycott	5	0	0	0	5
For an Order Regarding Freedom of Association	5	0	0	0	5
To Appoint a Fact Finder	0	0	0	1	1
Miscellaneous	9	23	5	2	39
For Reconsideration of a Decision	53	55	17	5	130
To file an order in the Supreme Court	167	16	3	1	187
TOTAL	832	2597	346	101	3876

TABLE 9
ANALYSIS OF MEDIATION OFFICER APPOINTMENTS

Appointments continued from previous year	26
Appointments made - January 1-December 31, 1989	95
TOTAL	121
Breakdown of Appointments	
On application of employers	46
On application of trade unions	49
Joint applications	
* At direction of the Minister or Commissioner	0
TOTAL	95
Coverage of Appointments	
Number of employers involved	94
Number of units affected	107
Number of employees involved	9563
Disposition of Appointments	
Parties reached agreement	101
Parties did not reach agreement	4
Appointments continuing	12
Appointments rescinded	4
* Other	0
TOTAL	121
Additional Settlements	
Following report of the mediation officer	15
No official appointment	0
TOTAL	15

TABLE 10

DISPUTES COMPLETED BY MEDIATION OFFICERS IN 1989

Appointments	121
Less rescinded appointments	4
Less continuing	12
TOTAL	105
Plus no appointment	0
TOTAL DISPUTES COMPLETED	105
Disputes settled during mediation officer's term	86
Disputes settled after mediation officer's term	15
Disputes settled no official appointment	0
TOTAL SETTLED	101
Disputes reported not settled	4
Less settled following report	0
TOTAL NOT SETTLED	4
SUCCESS RATE OF SETTLEMENTS	96.19%

TABLE A

STATUTORY HISTORY OF THE INDUSTRIAL RELATIONS ACT

(1) THE LABOUR CODE

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
Labour Code, R.S.B.C. 1979, c.212 (formerly Labour Code of British Columbia, S.B.C. 1973, (2nd Sess.), c.122)	November 13, 1973 Proclamation	12, 26, 124, 139, 140, 150	Reg. 424/74, Pt.II, V.16, p.645
	December 20, 1973 Proclamation	21, 55	Reg. 12/74, Pt.II, V.17, p.158
	January 14, 1974 Proclamation	1-11, 13-20, 22-25, 27-30, 32-54, 56, 59-69, 73, 92-112, 122, 123, 125-127, 138, 141-149, 150A, 151(a), 152	Reg. 41/74, Pt.II, V.17, p.192
	January 24, 1974 Proclamation	70-72	Reg. 53/74, Pt.II, V.17, p.195
	March 1, 1974 Proclamation	74-78	Reg. 154/74, Pt.II, V.17, p.407
	March 14, 1974 Proclamation	113-121A	Reg. 174/74, Pt.II, V.17, p.433
	August 15, 1974 Proclamation	57, 58	Reg. 578/74, Pt.II, V.17, p.949
	September 2, 1974 Proclamation	31, 79-91	Reg. 606/74, Pt.II, V.17, p.998
	September 16, 1974 Proclamation	151(b) and (c)	Reg. 682/74, Pt.II, V.17, p.1116

TABLE A (cont.)

STATUTORY HISTORY OF THE INDUSTRIAL RELATIONS ACT

(2) AMENDING ACTS

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
Statute Law Amendment Act, 1974, S.B.C. 1974, c.87, s.22	October 14, 1974 Proclamation	22(a) (among others)	Reg. 709/74, Pt.II, V.17, p.1158
	June 20, 1974 Royal Assent	22(b) - 22(i) (among others)	N/A
Essential Services Continuation Act, S.B.C. 1974, c.108, s.6	August 9, 1974 Royal Assent	6 (among others)	N/A
Elevator Construction Industry Labour Disputes Act, S.B.C. 1974, c.107, s.6	November 26, 1974 Royal Assent	6 (among others)	N/A
Labour Code of British Columbia Amendment Act, 1975, S.B.C. 1975, c.33	June 26, 1975 Royal Assent	1-6, 8-33	N/A
	January 14, 1974 Retroactive Effect	7	N/A
Labour Code of British Columbia Amendment Act, 1976, S.B.C. 1976, c.26	June 30, 1976 Royal Assent	1-8	N/A
Miscellaneous Statutes Amendment Act, 1976, S.B.C. 1976, c.32	July 8, 1976 Proclamation	12A	Reg. 391/76, Pt.II, V.19, p.511
Labour Code of British Columbia Amendment Act, 1977, S.B.C. 1977, c.72	September 27, 1977 Royal Assent	1-12	N/A
Ministerial Titles Amendment Act, S.B.C. 1977, c.75	October 21, 1977 Proclamation	Sch. I, Ss.8(2), 127(3), 129(a), 136, 137(1)(a)	N/A
Essential Services Disputes Act, S.B.C. 1977, c.83	October 28, 1977 Proclamation	19 repeals 73(1) to (6)	N/A
Miscellaneous Statutes Amendment Act, 1978, S.B.C. 1978, c.28	July 6, 1978 Proclamation	11 amends 69	N/A
Financial Administration Act, S.B.C. 1981, c.15	November 26, 1981 Proclamation	117 repeals 139(2)	Reg. 468/81, Pt.II, V.24, p.981
Court of Appeal Act, S.B.C. 1982, c.7	September 7, 1982 Proclamation		Reg. 302/82, Pt.II, V.25, p.428

TABLE A (cont.)

STATUTORY HISTORY OF THE INDUSTRIAL RELATIONS ACT

(2) AMENDING ACTS (cont.)

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
Labour Code Amendment Act, 1982, S.B.C. 1982, c.59	August 4, 1982 Proclamation		Reg. 354/82, Pt.II, V.25, p.564
Regulations Act, S.B.C. 1983, c.10	October 26, 1983 Regulation	21, 25 and Schedules 2 and 16 amend 21(2), 29(1)(a), (b), 29(2), 35(c), 42(2), 59(2), 60(c), 61(2), 73(1)(a), 75, 81(5)(a), (6), 142(1), 154	Reg. 393/83, Pt.II, V.26, p.607
Labour Code Amendment Act, 1984, R.S.B.C. 1984, c.24	June 8, 1984 Regulation	1-19 except 13	Reg. 167/84, Pt.II, V.27, p.221
	August 27, 1984 Regulation	13	Reg. 274/84, Pt.II, V.27, p.358
Commercial Arbitration Act, S.B.C. 1986, c.3	July 4, 1986 Regulation	47 repeals 99(4)	Reg. 148/86
Industrial Relations Reform Act, 1987, S.B.C. 1987, c.24	July 27, 1987 Regulation	The whole Act except S.2(e) and that part of S.60 that enacts S.137.97 to S.137.99	Reg. 246/87
Miscellaneous Statutes Amendment Act (No. 5), 1987, S.B.C. 1987, c.60	December 17, 1987 Royal Assent	9 amends 26(2)	
Budget Measures Implementation Act, 1989, S.B.C. 1989, c.1	Retroactive to April 1, 1988	5 amends 123.1	

TABLE B

STATUTES CONFERRING AUTHORITY ON THE COUNCIL

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
Industrial Relations Act, R.S.B.C. 1979, c.212	Refer Table A	1-127, 137.1-137.96, 138-154	
Public Service Labour Relations Act, R.S.B.C. 1979, c.346	January 3, 1974 Proclamation	1-14, 17-28 (amendments to Ss.4, 11 and 17 yet to be proclaimed)	Reg. 14/74, Pt.II, V.17, p.160
Assessment Authority Act, R.S.B.C. 1979, c.22	June 20, 1974 Royal Assent	21 (among others)	N/A
Institute of Technology Act, R.S.B.C. 1979, c.199	July 4, 1974 Proclamation	7	Reg. 485/74, Pt.II, V.17, p.788
Ferry Corporation Act, R.S.B.C. 1979, c.128	June 30, 1976 Royal Assent	23 (among others)	N/A
System Act, R.S.B.C. 1979, c.399	September 1, 1977 Proclamation	17 (among others)	Reg. 349/77, Pt.II, V.20, p.665
Science Council Act, R.S.B.C. 1979, c.379	June 29, 1978 Royal Assent	1-17	N/A
British Columbia Transit Act, R.S.B.C. 1979, c.421	June 29, 1978 Royal Assent	1-25	N/A
College and Institute Act, R.S.B.C. 1979, c.53	October 10, 1978 Proclamation	30(8)	Reg. 463/78, Pt.II, V.21, p.1219
	December 15, 1977 Proclamation	42 (among others)	Reg. 607/77, Pt.II, V.21, p.357
Metro Transit Operating Company Act, R.S.B.C. 1979, c.257	July 31, 1979 Royal Assent	6	N/A
Employment Standards Act, S.B.C. 1980, c.10	March 14, 1981 Proclamation		Reg. 35/81, Pt.II, V.24, p.85
Metro Transit Collective Bargaining Assistance Act, S.B.C. 1984, c.33	September 14, 1984 Royal Assent	1-12	N/A

TABLE C

REGULATIONS UNDER THE INDUSTRIAL RELATIONS ACT

Effective Date	Regulation No.	B.C. Gazette References
* July 27, 1987	Industrial Relations (Voting) Regulation	Reg. 247/87, Pt.II, V.30, p.268
* July 27, 1987	Industrial Relations (Practice and Procedure) Regulation	N/A

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* Reg. 247/87 was enacted by the Lieutenant Governor in Council pursuant to Section 150 of the Act. Reg. 247/87 repealed the Labour Code Regulations, B.C. Reg. 522/73. On July 27, 1987, pursuant to Section 21(2) of the Act, and with the approval of the Minister of Labour and Consumer Services, the Industrial Relations Council made the Industrial Relations (Practice and Procedure) Regulation, which may be referred to as the Industrial Relations Council Rules.

TABLE D

STATUTES AFFECTING THE INDUSTRIAL RELATIONS ACT

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
University Act, R.S.B.C. 1979, c.419	October 7, 1977 Proclamation of S.38, Miscellaneous Statutes Amendment Act, 1977, S.B.C. 1977, c.76	80	Reg. 434/77, Pt.II, V.20, p.767